

1 UNITED STATES DISTRICT COURT  
 2 WESTERN DISTRICT OF WASHINGTON  
 3 AT TACOMA

4 UNITED STATES OF AMERICA,	)	Docket No. CR05-5828FDB
5 Plaintiff,	)	Tacoma, Washington
6 vs.	)	February 15, 2008
7 BRIANA WATERS,	)	VOLUME 5
8 Defendant.	)	

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 11 TRANSCRIPT OF PROCEEDINGS  
 12 BEFORE THE HONORABLE FRANKLIN D. BURGESS  
 SENIOR UNITED STATES DISTRICT COURT JUDGE, and a jury.

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1                   FRIDAY, FEBRUARY 15, 2008 - 9:00 A.M.

2                                   \* \* \*

3                   THE COURT: All right, you may be seated.

4                   THE CLERK: This is in the matter of United States of  
5 America versus Briana Waters, Cause No. CR05-5828FDB.

6                   Counsel, please make an appearance for the record.

7                   MR. FRIEDMAN: Good morning, Your Honor, Andrew  
8 Friedman and Mark Bartlett for the United States.

9                   MR. BLOOM: Robert Bloom and Neil Fox for Ms. Waters.

10                  THE COURT: Let the record reflect Ms. Waters is  
11 present.

12                  We are dealing with Ms. Philabaum, so we will bring in  
13 the jury and continue that examination.

14                  (Jury present.)

15                  LACEY PHILABAUM, called as a witness, resumed stand.

16                  THE COURT: All right, you may be seated. Good  
17 morning to you.

18                  I believe we are ready for day five.

19                  Mr. Friedman.

20                  MR. FRIEDMAN: Thank you, Your Honor.

21                                  DIRECT EXAMINATION- CONTINUED

22 BY MR. FRIEDMAN:

23 Q. Good morning, Ms. Philabaum.

24 A. Good morning.

25 Q. I think when we stopped yesterday we were talking about

1 the afternoon, after you had broken up following the arson.

2 **A.** Uh-huh.

3 **Q.** Do you recall having any discussions about any damage to  
4 the car that day?

5 **A.** The day of the arson?

6 **Q.** I'm sorry, do you recall having discussions that afternoon  
7 about damage to the car?

8 **A.** That may have been when I talked with Avalon about Bill  
9 Rodgers, about how much damage had been done to the car, and  
10 he reassured me that the damage was minimal.

11 **Q.** Did you have any sense as to whether anyone had tried to  
12 repair it?

13 **A.** Yes. I knew that the plan was, and I think he confirmed  
14 to me, to get some of like paint retouching, car retouching;  
15 and to fix the minor scrape that had happened.

16 **Q.** I believe we were also talking about a communiqué. You  
17 said you subsequently saw a communiqué relating to the action?

18 **A.** I did.

19 **Q.** Would you look again at Exhibit 349.

20 **A.** There's this page outside of it. There's nothing in the  
21 folder, but this says 349 at the bottom.

22 **Q.** I think this may have been in the mixup right at the end  
23 of the day yesterday, because I think you were looking at it  
24 at the end of the day yesterday. Do you recall that?

25 **A.** Okay. I'm sorry.

1 Q. Do you recall looking at it at the end of the day  
2 yesterday, and it being Exhibit 349?

3 A. No, I don't, I'm sorry. I don't have a particular memory  
4 of that.

5 MR. FRIEDMAN: May I approach the witness and hand  
6 her another copy, if necessary, Your Honor?

7 THE COURT: You may.

8 BY MR. FRIEDMAN:

9 Q. I'm sorry. You're saying you have something that's marked  
10 349?

11 A. It has a sticker on the bottom that says 349. It just was  
12 inside the folder.

13 Q. I'm sorry, I thought you said you were looking at a piece  
14 of paper that had nothing on it.

15 A. No, I'm sorry.

16 Q. Do you recognize that document?

17 A. It's a communiqué written after the arson.

18 MR. FRIEDMAN: Government offers Exhibit 349.

19 MR. BLOOM: No objection.

20 THE COURT: Admitted.

21 (Exhibit No. 349 admitted.)

22 MR. FRIEDMAN: If you could blow that up.

23 BY MR. FRIEDMAN:

24 Q. Could I ask you to read that to the jury?

25 MR. BLOOM: Could we perhaps get that "not published"

1 off the screen, do you think, Pat?

2 THE CLERK: I'm sorry.

3 MR. BLOOM: Thank you.

4 **A.** It says:

5 "Communiqué sent by the Earth Liberation Front.

6 "Part 1.

7 "At 3:15 a.m. on Monday, May 21, the research of Toby  
8 Bradshaw was reduced to smoke and ashes. We attacked his  
9 office at the University of Washington while at the same time  
10 another group set fire to a related target in Clatskanie,  
11 Oregon, 150 miles away.

12 "Bradshaw, the driving force in GE tree research,  
13 continues to unleash mutant genes into the environment that is  
14 certain to cause irreversible harm to forest ecosystems.

15 "After breaking into Bradshaw's office at the Center for  
16 Urban Horticulture, we inspected the building for occupants  
17 and set up incendiary devices with a modest amount of  
18 accelerant. Although we placed these devices specifically to  
19 target his office, a large portion of the building was  
20 damaged. This extensive damage was due to a surprisingly slow  
21 and poorly coordinated response from the fire department,  
22 which was evident by their radio transmissions,

23 "As long as universities continue to pursue this reckless  
24 'science,' they run the risk of suffering severe losses. Our  
25 message remains clear, we are determined to stop genetic

1 engi neeri ng.

2 "From the torching of Catherine Ive's office at Michigan  
3 State University to the total incineration of GE seeds at the  
4 D & PL warehouses in Visalia, CA, the Earth Liberation Front  
5 is growing and spreading. As the culture of domination forces  
6 itself into our very genes, wild fires of outrage will  
7 continue to blaze.

8 "ELF.

9 "Part 2.

10 "Early Monday morning, May 21, we dealt a blow to one of  
11 the many institutions responsible for massive hybrid tree  
12 farming in the Northwest. Incendiary devices at Jefferson  
13 Poplar in Clatskanie, Oregon, burned an office and a fleet of  
14 13 trucks. Unfortunately, due to a design flaw, one targeted  
15 structure was left standing. We torched Jefferson Poplar  
16 because hybrid poplars are an ecological nightmare threatening  
17 native biodiversity in the ecosystem. Our forests are being  
18 liquidated and replaced with monocultured tree farms so  
19 greedy, earth raping corporations can make more money.

20 "Pending legislation in Oregon and Washington further  
21 criminalizing direct action in defense of the wild will not  
22 stop us and only highlights the fragility of the ecocidal  
23 empire.

24 "As we wrote in Clatskanie 'You cannot control what is  
25 wild.'

1 "ELF.

2 "Earth Liberation Front."

3 Q. Over time, Ms. Phillabaum, did you learn more about the  
4 Center for Urban Horticulture?

5 A. Yes.

6 Q. What did you learn?

7 A. Well, I'm not sure if I knew exactly what was in the  
8 building at that time, but I started to understand what the  
9 offices in that building were really about.

10 Q. Did you learn about what damage had been done to the  
11 center?

12 A. Yeah. I looked at it only in a very preliminary way,  
13 because I didn't really want to know or have to look back at  
14 what we had done. But working with Oregon Tilth, I came to  
15 understand what a master gardener is, and I came to know what  
16 a community of people invested in sustainable agriculture is.  
17 It was, you know, a blessing to me to work in that community  
18 in Oregon. I did great damage to that community in  
19 Washington.

20 Q. How did that cause you to feel about what you had done?

21 A. I still mostly tried not to look back at it. But, you  
22 know, one thing that really impacted me as well was knowing  
23 that books were burned. I have a lot of remorse about what we  
24 did.

25 Q. Did you ever consider committing another arson after that?



1   **A.**   No.

2   **Q.**   Did you ever commit any other arsons?

3   **A.**   No.   I made efforts to start distancing myself from the  
4   Earth Liberation Front and radical environmentalism generally  
5   at that point.

6        It took a while, and really, when this case happened was,  
7   you know, an important point in me being forced to look back  
8   at what had happened.   It took me from 1995 to 2001 to be  
9   willing to do this as well.   So it took a while to change my  
10   perspective on things as well.

11   **Q.**   You told us yesterday you -- well, I guess you weren't  
12   then -- you were growing involved with Mr. Meyerhoff?

13   **A.**   Uh-huh.   We got to know each other there, and then sort of  
14   our relationship grew from that point.   It was very much about  
15   integrating ourselves back into the mainstream instead of  
16   being counter to it.   It was a lot of work and it was very  
17   difficult to do.

18   **Q.**   Do you know whether he may have committed any arsons after  
19   these two arsons?

20   **A.**   I don't know anything for sure except what was in the  
21   documents in Oregon, the legal briefs, which I think says he  
22   did.

23   **Q.**   Did you try and do anything to prevent -- was part of  
24   distancing yourself, did any of that have to do with  
25   Mr. Meyerhoff or what he did?

1   **A.** Well -- I'm sorry, ask me that again.

2   **Q.** You said you tried to distance yourself. What about the  
3 fact that Mr. Meyerhoff may or may not have remained involved,  
4 did you do anything about that?

5   **A.** Well, the first part of getting uninvolved was admitting  
6 to one another that we didn't want to be involved. And that  
7 was difficult to do at the very beginning of our relationship,  
8 having met each other in this circumstance.

9       So eventually, you know, I -- I was pretty clear with him  
10 after 9/11 that I thought it was just absolutely intolerable  
11 to be involved in anything like this. It was a mutually  
12 reinforcing system of changing our values.

13   **Q.** Do you have any information that he may, even after 9/11,  
14 he might have been involved in another arson?

15   **A.** I can't remember the dates of things that I wasn't  
16 involved in right now.

17   **Q.** Did you have discussions with him about him also becoming  
18 uninvolved or distancing himself?

19   **A.** Yes. I think I told him that opinion after 9/11. I think  
20 I read in the paper about this thing in California that  
21 happened after 9/11. I was not sure that he had been  
22 involved, but I made it pretty clear to him that I thought  
23 that that was completely unacceptable.

24   **Q.** Whether or not he was? That he may have been, but that  
25 you --

1 MR. BLOOM: Excuse me. Leading, please.

2 BY MR. FRIEDMAN:

3 Q. Could you try and explain what you made clear to him or  
4 what you were trying to make clear to him?

5 A. That arson as a political tactic was completely  
6 illegitimate given the political context after 9/11. The  
7 idea -- we were so focused on the fact that it was, we called  
8 it nonviolent. We didn't appreciate how incredibly  
9 destructive what we were doing was. We were just so focused  
10 on it's not violent, it won't hurt anyone. After 9/11, that  
11 rationale seemed as thin as it was.

12 Q. Did you ever see the defendant again after the weekend of  
13 the arson?

14 A. Briana Waters?

15 Q. Yes.

16 A. No.

17 Q. Do you recall whether you ever saw Justin Solondz after  
18 the weekend of the arson?

19 A. I don't think so, no.

20 Q. Did you ever see William Rodgers again?

21 A. I am pretty sure that I never saw him again.

22 Q. And what about Jennifer Kolar?

23 A. I never saw -- oh, no, I saw her one other time, at a  
24 meeting of that book club group that took place shortly after  
25 the arson.

1 Q. Do you recall, what year was that?

2 A. That would have been 2001, shortly after the arson.

3 Q. Do you recall ever seeing her since 2001?

4 A. I have never seen Jen Kolar since 2001.

5 Q. Have you had any other direct contact with Ms. Kolar?

6 Have you telephoned or spoken to her by telephone?

7 A. I have had absolutely no contact with Jen Kolar.

8 Q. Have you received any e-mails from her, of which you are  
9 aware of, since 2001?

10 A. No e-mail, no phone contact, no friend of a friend.

11 Absolutely no contact.

12 Q. Ms. Philabaum, during 2000 and 2001, did you ever use  
13 marijuana?

14 A. During 2000 and 2001, yes.

15 Q. Did you ever use it -- can you give us an idea of how  
16 often you used it?

17 A. I used it -- I would say that I had a problem with smoking  
18 marijuana. I used it frequently.

19 Q. Did you use it before or around the time of any of the  
20 planning meetings you've discussed?

21 A. No. Avalon was very -- had a very strong ethic of not  
22 using drugs generally, and very, very, particularly, we all --  
23 I, mean this was serious. None of us was going to be drunk or  
24 stoned when we were doing this. So, no, absolutely not.

25 Q. Did you also use ecstasy during that time period?

1   **A.**   No.

2   **Q.**   Have you used it since?

3   **A.**   I did afterwards, yes.

4   **Q.**   How often do you think you've used ecstasy?

5   **A.**   I haven't used it since, I think the latest would be 2002.

6   And how often? I don't know. A handful of times in that --

7   four times, maybe, between -- the first time I think was in

8   December of 2001.

9   **Q.**   Do you think that the marijuana that you used or the  
10   ecstasy, either of those has affected your memory of these  
11   events?

12   **A.**   Of these events, no.

13   **Q.**   Why is that?

14   **A.**   Well, I didn't ever -- it didn't ever make me hallucinate.

15   I was absent minded when I did smoke marijuana, but I don't

16   have problems with my memory. The things I remember, I

17   remember clearly; and what I don't remember, I don't remember.

18   **Q.**   When we started out you told us a little bit about where  
19   you had lived over time. I think you told us at some point  
20   you moved to Charlottesville.

21   **A.**   Uh-huh.

22   **Q.**   After you moved to Charlottesville, did Mr. Meyerhoff also  
23   move to the east coast?

24   **A.**   He did at some point afterwards, yes.

25   **Q.**   Where were you living when this case became public and

1 Mr. Meyerhoff was arrested?

2 A. I was living in Washington, D.C.

3 Q. Do you recall the day on which he was arrested?

4 A. December 7, 2005.

5 Q. How did you learn he had been arrested?

6 A. He was living in a house that I had previously rented, and  
7 I spoke with my housemate, my former housemate. I had been  
8 calling him because I hadn't heard from him all day and she  
9 told me he had been arrested.

10 Q. Did you have any contact with the government that day?

11 A. No, I didn't have any contact with the government. Very  
12 late that night I received a voice mail from an FBI agent on  
13 my phone. He told me that Stan had been indicted on two  
14 counts of arson.

15 Q. Did you have any conversation with Stan Meyerhoff in the  
16 days that followed that?

17 A. The next day I went to Charlottesville to move Stan's car,  
18 which had been left on campus -- oh, my car was actually there  
19 as well, was in Charlottesville, so my friend drove me to  
20 Charlottesville. I moved his car so it wouldn't get towed. I  
21 got a copy of the search warrant that they had left at my  
22 former house where he was living, and he -- I'm sorry, I  
23 forgot the question. Did I have contact with him?

24 Q. Right.

25 A. He called me. He was on an agent's phone, and we had a

1 very brief conversation in which I was yelling at him, and in  
2 increasing hysterics, that he needed to get an attorney.

3 Q. Did you speak with the agent at all during that  
4 conversation?

5 A. No.

6 Q. Did you have a conversation with him the day or two after  
7 that with the agent?

8 A. During that conversation, Stan gave me the phone number  
9 that he said was the agent's cell phone.

10 The next day, I called that number -- I think it was the  
11 next day; it could have been a day or two later. It was --  
12 let me see. I think the arrest happened on Thursday. That  
13 was maybe Friday when I talked to Stan. It could have been as  
14 long as Monday. But I talked to him that day and wanted to  
15 know if Stan had retained counsel and where Stan was, And he  
16 would not answer those questions.

17 Q. During any of those conversations, did you have any  
18 substantive discussion about any arsons or any of the crimes  
19 at issue?

20 A. Definitely not.

21 Q. After those conversations, when is the next time you had  
22 any contact with the government?

23 A. Presidents' Day weekend, 2006. My father got a phone call  
24 from the FBI, and he related the substance of that  
25 conversation to me.

1 Q. Just to be clear, do you recall when Presidents' Day  
2 weekend was?

3 A. The dates? I think that the phone call -- I think  
4 February 21st was the Tuesday, February 20 was Monday,  
5 February 19th was Sunday. I think the phone call happened on  
6 Saturday, February 18.

7 Q. What did he relay to you as the substance of that contact?

8 A. That I was likely to be indicted on one, if not two counts  
9 of arson.

10 Q. Did he provide any details about the arson or people who  
11 might have been involved?

12 A. No.

13 Q. What happened after that?

14 A. I spoke with an attorney, who I'd had some preliminary  
15 conversations with, in Seattle. On Monday my father and I met  
16 with that attorney. On Tuesday, the attorney and I met with  
17 yourself and FBI.

18 Q. Were you promised anything or told anything before the  
19 start of that meeting? Were you promised anything before the  
20 start of that meeting?

21 A. No, I was not promised anything.

22 Q. What were you told?

23 A. I was told it would be better for me if I was forthcoming  
24 about what had happened.

25 Q. After that, what happened during the course of that



1 meeting?

2 **A.** I came in -- oh, I signed a piece of paper that said I  
3 wasn't promised anything, and then -- and some other more  
4 technical legal language. And someone, one of the FBI agents,  
5 asked me where I was born, and the whole story came tumbling  
6 out of my mouth.

7 **Q.** During the course of that meeting, who was providing the  
8 information to him?

9 **A.** I was providing all of the information.

10 **Q.** Between the first phone call that took place on February  
11 18 and that meeting on February 21st, were you involved in any  
12 conversation or meeting in which anyone from the government  
13 gave you any details about what they believed had happened in  
14 any arson?

15 **A.** I'm sorry, from which point to which point?

16 **Q.** When your family received the phone call on February 18,  
17 until three days later when you met with the government, were  
18 you provided any information?

19 **A.** No. I would say to this day I haven't been provided any  
20 significant information about anything that happened. I  
21 haven't read any of the discovery that's not been in the court  
22 case. I am relying on my memory alone.

23 **Q.** Mr. Bloom referred to something in the opening as a  
24 reverse proffer. He said the government provides information  
25 to you and then you give it back.

1 Did you receive any information from the government about  
2 what happened at the University of Washington arson?

3 A. No.

4 Q. Do you have any reason to believe that your attorney  
5 received any information from the government about what  
6 happened during the University of Washington arson?

7 A. No.

8 Q. I am going to ask you about one other thing. You've been  
9 shown a number of pictures during the course of this  
10 investigation; is that correct?

11 A. Yes.

12 Q. Would you take a look at Exhibit 115. I think you've  
13 already looked at this yesterday. It's been admitted.

14 MR. FRIEDMAN: Can you publish that, please?

15 BY MR. FRIEDMAN:

16 Q. Was that one of the pictures you were shown?

17 A. I believe it is, yes.

18 Q. Do you recall what you said when you were shown that  
19 picture?

20 A. I said it was Justin Solondz.

21 Q. Would you take a look at Exhibit 115-A and tell me if you  
22 recognize that?

23 A. I don't have that exhibit.

24 Q. Do you recall being shown that picture?

25 A. This picture is larger than the version I was shown.

1 Q. Were you shown the same picture, just a little smaller?

2 A. I was shown this picture and, I believe, another picture  
3 that were smaller.

4 MR. FRIEDMAN: The government offers Exhibit 115-A.

5 MR. BLOOM: No objection.

6 THE COURT: Admitted.

7 (Exhibit No. 115-A admitted.)

8 BY MR. FRIEDMAN:

9 Q. Do you recall whether you recognized the person shown in  
10 that picture when you were shown that?

11 A. When I was shown this picture, I did not know who this  
12 was.

13 Q. Do you recognize it today, the person?

14 A. Blown up it looks quite a bit more like Justin, but not  
15 especially, no.

16 Thank you. No more questions.

17 CROSS-EXAMINATION

18 BY MR. BLOOM:

19 Q. Good morning.

20 A. Good morning.

21 Q. Have we ever met?

22 A. Have you and I ever met? I don't think so.

23 Q. My name is Robert Bloom.

24 A. Hello, Mr. Bloom.

25 Q. Attorney for Briana Waters.

1 Have you met this man over here?

2 A. No, I haven't. I believe that must be Mr. Fox, but I have  
3 never met him.

4 Q. Where would you have gotten that information?

5 A. I know that Briana's two attorneys are Mr. Bloom and  
6 Mr. Fox.

7 Q. How do you know that?

8 A. I have read the pleadings in this case.

9 Q. How have you come to read the pleadings in this case?

10 A. My attorney sent them to me. When I was out, I read them  
11 on my own.

12 Q. Did there come a time -- you say your attorney. Is that  
13 Mr. Levy?

14 A. I have a number of people whom I seek legal advice from.

15 Q. Who are they?

16 A. Mr. Levy. I originally had a different attorney named  
17 Mr. Offenbecher. I have spoken with a partner in my parent's  
18 law firm named Mr. Matthew's. And both of my parents are  
19 attorneys, Steve and Cheryl Philabaum. And at different  
20 points I have spoken with other lawyers.

21 Q. Did there come a time when Mr. Levy asked you if you would  
22 speak to me or Mr. Fox?

23 A. No.

24 Q. He never did ask you that?

25 A. It was never clear to me that you had asked to speak with

1 me. I know that you had some contact with my attorney,  
2 Mr. Levy. My understanding is that you were requesting to  
3 speak with him.

4 Q. It was not your understanding that we were also requesting  
5 to speak to you; that was not your understanding?

6 A. No, I did not understand that, no.

7 Q. Do you have any reason, know any reason why Mr. Levy would  
8 have written to us and said that "After further consultation  
9 with my client, I do not see any point in a meeting. She will  
10 not agree to an interview, nor will she release Peter  
11 Offenbecher to discuss this case with you."

12 Do you remember having those kind of discussions with Mr.  
13 Levy?

14 A. Yes.

15 Q. Did Mr. Levy suggest to you or say to you that we would  
16 like to speak with you?

17 A. The main point of the conversation that I had with Mr.  
18 Levy was you discussing with him. It may have been -- it's  
19 possible that he told me that you wanted to meet with me. I  
20 think if that had been relayed to me, it would have been  
21 important to me that I be able to speak with Briana, and he  
22 may have related to me that that was not a possibility. That  
23 was -- to me -- I authorized him to evaluate with you, to make  
24 a decision whether or not he should meet with you.

25 Q. Is there any reason that he would -- if that's so, can you

1 think of any reason, or did he tell you any reason why he  
2 would say to us that she -- you, Lacey Philabaum -- will not  
3 agree to an interview, nor will she release Peter Offenbecher  
4 to discuss the case with you?

5 Do you have any reason to know why he would say such a  
6 thing?

7 **A.** I authorized Mr. Levy to deal with the situation. My  
8 understanding is it was primarily about him meeting with you.  
9 I think if he talked about me meeting with you, I was clear I  
10 was not willing to do that unless Briana was there.

11 **Q.** You did say that you were not willing to meet with us  
12 unless Briana was there. You told that to Mr. Levy?

13 **A.** I believe I did.

14 **Q.** Let me get back to that in a little while. I wanted to  
15 ask you about something you said yesterday. Mr. Friedman  
16 asked you a question, early on in your examination yesterday,  
17 and the question was: Do you bear any ill will toward Briana  
18 Waters?

19 Do you remember that question?

20 **A.** Yes, sir.

21 **Q.** Do you remember that your answer was that you have  
22 sympathy for everyone in this case?

23 **A.** Yes, sir.

24 **Q.** Is there a reason you didn't answer the question as to  
25 whether or not you bore any ill will toward Briana Waters?

1 **A.** I bear no ill will toward Briana Waters.

2 **Q.** That's not my question. Is there a reason you didn't  
3 answer the question?

4 **A.** I was speaking generally instead of specifically. I have  
5 really, really cultivated compassion for everyone involved in  
6 this case. It's something I work on.

7 **Q.** And that would be a good thing for you. The gentleman  
8 sitting over there, Judge Burgess, he's going to be the person  
9 who's going to be sentencing you; is that correct?

10 **A.** That's correct.

11 **Q.** And it's a nice thing for him to hear that you have  
12 compassion for everyone. You know that, don't you?

13 **A.** I don't think being sympathetic to my coconspirators  
14 necessarily helps me. I don't know. I am being honest. I am  
15 not trying to say what only benefits me.

16 **Q.** Now back to the question of ill will toward Ms. Waters.  
17 There came a time when you met Justin Solondz; is that  
18 correct?

19 **A.** That's correct.

20 **Q.** You didn't call him Justin Solondz; you called him  
21 something else, didn't you?

22 **A.** I don't know what I first knew him as, but I knew him as  
23 Connor during the course of the arson.

24 **Q.** Did you meet Connor -- what year did you meet Connor?

25 **A.** I believe I met him in 2001, or during the action in

1 Dusty, Washington.

2 Q. Who else was involved in the action in Dusty, Washington?

3 A. The people I remember for sure are Connor, myself, Chelsea  
4 Gerlach, Suzanne Savoie. I think, I am sure that Nathan Block  
5 and Joyanna Zacher were there. I think Daniel McGowan was  
6 there, and I remember either Stan or Avalon being there, but I  
7 am not sure which one.

8 Q. When was that activity?

9 A. That was, the Dusty action, I am not sure. I think we  
10 established yesterday it was in 2000.

11 Q. Maybe August 1 or so of 2000, does that ring a bell?

12 A. The action rings a bell. The date is not particularly  
13 significant in my mind.

14 Q. Would it have been in the summertime of the year 2000?

15 A. I couldn't place it during the season.

16 Q. So you met this person you knew as Connor sometime in the  
17 year 2000; is that correct?

18 A. Yes. If that's when the action was, that's when I met  
19 him.

20 Q. Where is Dusty, Washington? How far, with direction from,  
21 let's say, Seattle?

22 A. I think it's in eastern Washington.

23 Q. It would go beyond the Cascade's, the central part of the  
24 state?

25 A. I think it's near Pullman.



1 Q. You named about seven or eight people who were involved,  
2 or maybe more. Do you remember how you got to Dusty,  
3 Washington?

4 A. No. I think I might have driven with Chelsea. One time I  
5 -- no, both times I drove with Chelsea.

6 Q. In her car or your car?

7 A. Her car; yeah, her car.

8 Q. What kind of car was that?

9 A. A small car, compact car.

10 Q. Now, I think you said yesterday -- you made quite a big  
11 point of it -- that going to these actions, you couldn't get a  
12 car that was not associated with the activists. That  
13 sometimes was a deal breaker.

14 She took her car to Dusty, Washington. That's what you  
15 just told us.

16 A. No, she didn't take her car to the site. She drove us to  
17 the area. We parked the vehicles in a parking lot away from  
18 the area.

19 Q. Well, you didn't drive right to the site. Of course you  
20 didn't put the car right at the site. But you drove to the  
21 site, and one of the cars was her car, registered in her name,  
22 right?

23 A. I don't believe that's correct.

24 Q. Well, tell us what you said. How did you get there? You  
25 said you got there in her car.

1 A. I drove to that area, that region, in Chelsea Gerlach's  
2 car. We parked the car in a parking lot, and then we took  
3 different cars to the site of the action.

4 Q. What cars did you take to the site of the action?

5 A. I don't know.

6 Q. Who drove?

7 A. I think that I might have been in Justin's car at that  
8 point.

9 Q. Justin Solondz, the same person as Connor; is that  
10 correct?

11 A. That's correct.

12 Q. Registered in his name, right?

13 A. I don't know anything about the registration of that car.  
14 I associated the car with him for some reason.

15 Q. Did it have a New Jersey license plate?

16 A. I don't think I would have been looking at that.

17 Q. Do you have any idea what kind of car it was?

18 A. I believe it was an SUV. I thought it was maybe a 4  
19 Runner.

20 Q. Whatever it was, it was his car that you took to an  
21 action; is that correct?

22 A. As you pointed out, Dusty, Washington, is in far -- very  
23 rural Washington. And this was pulling plants out of the  
24 ground. It wasn't really high level -- it was sort of an  
25 introductory thing, frankly.

1 Q. So it didn't matter if you got caught and his car was  
2 identified?

3 A. I think because the area was so rural, people were  
4 comfortable. But I don't know, because I didn't particularly  
5 play a role in planning that aspect.

6 Q. That would be different from taking a car to an arson; is  
7 that correct?

8 A. It would be significantly different, yes.

9 Q. You know, don't you, from reading the pleadings, that the  
10 allegation is that Justin's car was used at the Jefferson  
11 Poplar Farm on May 21 of the year 2001. Justin's car, in his  
12 name. You know that, don't you?

13 A. No, I don't remember that particular detail in the  
14 pleadings.

15 Q. If that was true, that would indeed put a lie to what you  
16 just said, wouldn't it?

17 A. I don't think that demonstrates a lie. I think that  
18 demonstrates that things didn't always work to ideal  
19 circumstances.

20 Q. Does it demonstrate that to go to the arson, the car,  
21 belonging to Justin Solondz, was used in perpetrating the  
22 arson at Jefferson Poplar Farm, a car in his name?

23 A. Okay, I will tell you this. Like I said, cars were often  
24 the linchpin. Coming by a number of completely anonymous cars  
25 was very difficult. I cannot speak to what happened at

1 Jefferson Poplar Farm because I was not there and I do not  
2 know what happened there.

3 **Q.** You were involved in planning the so-called double whammy,  
4 were you not?

5 **A.** No.

6 **Q.** Is there any reason that your fiancée would say that you  
7 are -- that you were, rather? Can you think of any reason why  
8 he would tell law enforcement that you in fact were involved  
9 in the planning of the double whammy, if that were not true?

10 **A.** He may remember differently. As far as I am concerned, I  
11 was involved at the last minute. And there was a plan that  
12 was revealed to me. I would prefer to say I was not involved  
13 in the planning, but I have to acknowledge that certain  
14 planning details were worked out while I was there. The  
15 question of how much fuel to use. I questioned a decision  
16 which had already been made about how to approach the  
17 building.

18 So, someone could have -- Stan, I imagine, has a different  
19 memory of what happened than I do.

20 **Q.** Well, you have just told us how you in fact were involved  
21 in the planning of the event, the double event. Did you just  
22 not tell us that about how much fuel was used and other  
23 issues? You just told us that just now. Isn't that part of  
24 planning?

25 **A.** Yes. That could fairly be called planning. I think a

1 significant portion of the plan had been established before I  
2 was involved and was revealed to me afterwards.

3 Q. And yet you have told us that you had input into refining  
4 the planning, is that fair to say?

5 A. That would be fair to say. It's not how I would phrase  
6 it, but you could say that.

7 Q. So, is it fair to say you were aware of the fact that  
8 Justin's car, in his name, was going to be used for that event  
9 at Clatskanie?

10 A. No, sir. I had no idea what was happening at Jefferson  
11 Poplar Farm until after it happened.

12 Q. You just work here, right? You have no idea.

13 A. Sorry --

14 Q. Withdrawn.

15 Let's get back to Justin Solondz, or Connor, as you knew  
16 him. You knew him sometime at first -- did you meet him at  
17 the event at Dusty, Washington?

18 A. I believe that was the first time I ever took note of him.

19 Q. Was there any flirting going on between the two of you?

20 A. No.

21 Q. None?

22 A. No.

23 Q. Did there ever come a time when you were at the place  
24 where he lived?

25 A. During one of the two weekends, when I spent time in

1 Olympia, I went briefly to a bus that I believed that he lived  
2 in.

3 Q. And who else went to the bus that you believed he lived  
4 in?

5 A. Just Justin.

6 Q. So just you and Justin were at his place of residence; is  
7 that correct?

8 A. That's correct, sir.

9 Q. Could you describe that bus?

10 A. It was a short bus, I think. I'm not sure.

11 Q. Well, think about it.

12 A. Okay. It was renovated to be a living space, and it was a  
13 short bus.

14 Q. A small space; is that correct?

15 A. That's correct. It usually is when you live in a bus.

16 Q. How did you come to go to that place with him?

17 A. I think Justin took me there.

18 Q. For what reason did he take you there?

19 A. I am not sure. I think he needed to get something.

20 Q. He what?

21 A. I think he needed to get something.

22 Q. What was it that he needed to get?

23 A. I am sorry, I don't have any idea.

24 Q. How long did you and he stay there?

25 A. A short period of time.

- 1 Q. How short?
- 2 A. Well, it's hard to be exact about something like that, but
- 3 I would say an hour or less.
- 4 Q. I am sorry, an hour or less?
- 5 A. Yes, probably less.
- 6 Q. Give us your best estimate of how much time you and he
- 7 spent at his place of residence?
- 8 A. Probably less than an hour.
- 9 Q. What did he get? What was it that he went to get?
- 10 A. I am sorry, I don't know.
- 11 Q. Was there a reason that he asked you to come along? Is
- 12 there something that was heavy and he needed another person to
- 13 help him carry it?
- 14 A. No. I think we were together for some other reason
- 15 already.
- 16 Q. So he said, "Let's go to my place. There's something I
- 17 have to get"?
- 18 A. I don't have a particular memory of that, but that sounds
- 19 approximately correct.
- 20 Q. While the two of you were there, what did he do in that
- 21 less than one hour?
- 22 A. I am sorry, I don't have any particular memory of what he
- 23 did. At some point there was this idea that we might take a
- 24 nap there.
- 25 Q. "That we might take a nap," did you say?

1 A. Well, neither of us had slept very much. So I remember  
2 being on his bed, and we didn't end up falling asleep. We  
3 ended up deciding to leave, and we left.

4 Q. You had some interaction with him?

5 A. Um --

6 Q. You laugh?

7 A. Yeah, I think it's funny. I am sorry. I think the  
8 implication is that I had some sort of sexual interaction with  
9 him, and that's not correct.

10 Q. But you were at his cabin, where -- is there even any room  
11 to sit anywhere other than the bed?

12 A. I am sorry, I don't have a particular memory of the layout  
13 of his bus.

14 Q. But you remember the bed?

15 A. I remember being on a bed. It was at the end of the bus,  
16 I remember that.

17 Q. And you remember that you and he were discussing taking a  
18 nap; is that correct?

19 A. I don't think it was a long discussion.

20 Q. And in fact, did he take a nap?

21 A. I am not sure he ever laid down on the bed.

22 Q. Do you remember the first day that you spoke with -- I am  
23 sorry, the second day that you spoke with law enforcement  
24 officials here, including Agent Halla? That's Agent Halla at  
25 the end there; is that correct?



1   **A.** That's correct.

2   **Q.** Do you remember telling him that in fact Justin took a  
3 nap -- I am sorry, Connor took a nap while you were there with  
4 him?

5   **A.** No, I don't remember telling him that. I am not trying to  
6 say I didn't tell him that, but I may have discussed the fact  
7 that I went to the bus with Justin. But I am unclear whether  
8 or not Justin was on the bed.

9   **Q.** When you say you were together, you may have been together  
10 for other reasons before that, or just before that, and that's  
11 why you went with him. What were you doing just before that?

12   **A.** Errands.

13   **Q.** What kind of errands?

14   **A.** I don't have a particular memory.

15   **Q.** And it was just the two of you?

16   **A.** Yes.

17   **Q.** And how long were you together before you went to his bus?

18   **A.** I am sorry, I can't say.

19   **Q.** Do you remember what day of the week it was?

20   **A.** It would have been Saturday or Sunday, I believe.

21   **Q.** And that would be the weekend of the arson, or the weekend  
22 before the arson?

23   **A.** I think that would be the weekend before the arson.

24   **Q.** Do you know where his bus -- I am sorry, it's called a  
25 bus. Do you know where it was in relation to, let's say, the

- 1 center of Olympia?
- 2 A. No. I don't know Olympia at all.
- 3 Q. Well, was it in a rural area or urban area?
- 4 A. I think it was a more rural area.
- 5 Q. Did you drive there?
- 6 A. I believe we drove there in his car.
- 7 Q. That would be his SUV; is that correct?
- 8 A. I think so, yes.
- 9 Q. That would be the weekend of the arson?
- 10 A. No, I think it was the weekend before.
- 11 Q. I am sorry, you did say that. I am sorry.
- 12 And you are unable to tell us how long you were with him
- 13 on that day?
- 14 A. That's correct.
- 15 Q. Now, by that time -- we are talking about May of 2001 --
- 16 is it fair to say that you had known him for several months?
- 17 A. A more accurate thing to say would be that I had met him
- 18 once prior.
- 19 Q. And you had not seen him in between?
- 20 A. Let's see. Oh, I think I saw him once in between.
- 21 Q. And when was that?
- 22 A. Maybe twice.
- 23 Q. Maybe twice?
- 24 A. Uh-huh.
- 25 Q. When was that?

1   **A.**   I saw him once at a meeting, prior to the University of  
2   Washington arson; and I saw him one other time in Eugene, very  
3   briefly.

4   **Q.**   How did that come to be? What was that event about?

5   **A.**   Which?

6   **Q.**   Eugene.

7   **A.**   He was with some other people. I saw him and I waved, and  
8   he went on.

9   **Q.**   So you are telling the jury, between the time you pulled  
10   up some crops in Dusty, Washington, until the time of the  
11   arson, you maybe saw him casually twice in between?

12   **A.**   That's correct.

13   **Q.**   And you had no intimate relations with him?

14   **A.**   I never had intimate relations with him.

15   **Q.**   Well, isn't it a fact there came a point in time that  
16   Briana Waters said to you, how dare you, how dare you have an  
17   affair with my boyfriend?

18   **A.**   No.

19   **Q.**   Isn't it a fact that there came a time when she was told  
20   by her boyfriend, Justin, who you call Connor, that in fact  
21   there had been intimate relations between you and her  
22   boyfriend? Did you come to learn that from Ms. Waters, that  
23   he, Justin, had so informed Ms. Waters?

24   **A.**   I don't think so. I was under the impression that they  
25   had broken up.

1 Q. That's basically your story when it comes to your getting  
2 involved with other women's men. That's just what you told  
3 the law enforcement people. The very first day that you spoke  
4 to them, you said Chelsea Gerlach, who was Meyerhoff's  
5 girlfriend, that they were just breaking up. You told them  
6 that, didn't you?

7 A. I am sorry, could you repeat that question?

8 Q. Yes. Your MO is that you make a decision that this man is  
9 breaking up with this woman, so this man, it's okay for me to  
10 go after this man. That's the way you operate, isn't it?

11 A. No.

12 Q. In fact, is there bad blood between you and Chelsea  
13 Gerlach because of the way you dealt with the relationship,  
14 you interfered with the relationship between her and Stan  
15 Meyerhoff?

16 A. I don't think -- they were broken up when Stan and I  
17 started dating. Chelsea and I have an uneasy relationship  
18 because it's a strong relationship. The fact that I have  
19 spent a number of years with her ex-boyfriend is a factor in  
20 that, but it's not an important factor.

21 When you say my MO, I feel like my sexual history is on  
22 trial. But it's obviously irrelevant to the question of  
23 whether or not Briana Waters was at the University of  
24 Washington arson.

25 Q. Well, I think that's something the jury is going to have

1 to determine, whether or not you have ill will toward  
2 Ms. Waters. That was the question that you were asked  
3 yesterday, a question that you did not answer. Do you  
4 understand that?

5 **A.** Again, I don't bear Briana Waters any ill will.

6 **Q.** You didn't say again; you didn't say that yesterday. Now  
7 is the first time you say that you don't bear her any ill  
8 will.

9 **A.** No. At the beginning of this cross-examination you asked  
10 me that question at least twice. I tried to answer it with  
11 the same meaning each time. I don't bear her any ill will.

12 **Q.** Isn't it a fact that she called you all kinds of names  
13 when she found out that you had cheated with Justin? She  
14 called you irresponsible. She called you unprincipled. She  
15 called you disrespectful of women and a person who is not  
16 worthy of being an activist in the cause of the betterment of  
17 humanity. Things like that. She told you that, did she not?

18 **A.** Actually, I am starting to remember a conversation along  
19 those lines. My general memory of that, over the course of  
20 the weekend, was that I went to Avalon and said: What is  
21 going on? Can I really be involved in this action? This  
22 person seems to be upset. You are asking me to put a lot of  
23 trust in this person. I told him that Justin had told me that  
24 they were broken up, and I kind of remember that raised his  
25 eyebrow.

1 Q. What do you mean, raised his eyebrow?

2 A. That maybe it wasn't his understanding that they were  
3 broken up. And -- I am sorry, what was the question?

4 Q. I actually don't remember. It was whether or not -- let  
5 me just ask you another question.

6 A. I have to say that's really vague; and the whole idea of  
7 being grilled by Briana, that's reaching for me to remember  
8 that. It's a very hazy thing.

9 Q. Was it hazy because that was during the period you were  
10 using marijuana?

11 A. No.

12 Q. Was it hazy because it's something you don't really like  
13 to hear, that people call you unprincipled?

14 A. No, that's not why it's hazy. It's hazy because it was a  
15 confusing interaction with me to start with, because I  
16 understood they were broken up and I hadn't had sex with him.  
17 I don't think, if she was accusing me of that, she was clear  
18 about that. I never had sexual interactions with Justin.

19 Q. You just watched him take a nap -- I am sorry, you  
20 discussed with him taking a nap at his bus when you were alone  
21 with him in that bus?

22 A. That's correct.

23 Q. No sexual interaction?

24 A. That's correct.

25 Q. I would ask you to look at the record of an interview --

1 withdrawn.

2 Now, you say that your recollection of these events was  
3 that it happened on the weekend that you committed the arson;  
4 is that correct? The conversation with Avalon.

5 A. No, I am not sure which weekend that happened.

6 Q. Well, when was it? Try to think about it, and tell us  
7 when was the conversation with Avalon?

8 A. I am sorry, sir, it's difficult for me to distinguish  
9 between the two times when I was in Olympia. I don't know.

10 Q. You were able to do that pretty well yesterday, isn't that  
11 correct, distinguish between the two times?

12 A. I am not sure. I don't know, did I do it well yesterday?

13 Q. Well, you did. And you told us, you told the jury certain  
14 dates, certain times, certain locations, certain people  
15 regarding the weekend before the arson and the weekend of the  
16 arson. Do you remember testifying to that; is that correct?

17 A. I testified about the arson yesterday, yes.

18 Q. And those other details as well; is that correct?

19 A. I have tried to be as detailed as I can, yes.

20 Q. How many times have you gone over your testimony with Mr.  
21 Friedman or Mr. Bartlett, or both?

22 A. Over the course of the events that happened? Over the two  
23 weekends?

24 Q. Let me make it clear. Have you discussed with  
25 Mr. Friedman before yesterday, have you gone over what he was

1 going to ask you as a witness in this courtroom?

2 A. Yes.

3 Q. And when did you do that? How many times did you do that?

4 A. I would say one time completely through, and abbreviated  
5 versions at other times.

6 Q. How many abbreviated versions at other times?

7 A. I think two other times he's asked me.

8 Q. When was the date, approximately, that you went over it  
9 beginning to end?

10 A. Let's see. The 9th of this month -- of last month, the  
11 9th of January.

12 Q. About five weeks ago, would you say?

13 A. Yeah.

14 Q. What location was that?

15 A. At the Sea-Tac Bureau of Prisons, F.D.C.

16 Q. How much time did you spend with him on that day?

17 A. Let's see. We did it quickly, maybe two-and-a-half, three  
18 hours.

19 Q. And the abbreviated times, when were they?

20 A. Let's see. Sometime last week he asked me in more detail  
21 some of the questions.

22 Q. In more detail, you say? Is that what you just said?

23 A. We went through it more slowly.

24 Q. More slowly?

25 A. Uh-huh.



1 Q. Where was that location?

2 A. Last week, that was at Sea-Tac F.D.C.

3 Q. How much time did you spend with him on that day?

4 A. We didn't spend very long on that, but I spent a number of  
5 hours with him that day.

6 Q. I am missing you. You didn't spend much time --

7 A. We didn't spend much time on that, the abbreviated going  
8 over the questions again, but I spent a significant amount of  
9 time with him that day.

10 Q. Talking about the case?

11 A. Talking about my concerns, talking about all sorts of  
12 issues, yeah.

13 Q. I want to go back to what you remember about Briana  
14 Waters, if anything, Briana Waters saying things to you that  
15 were unpleasant to hear, accusing you of being an unprincipled  
16 person. I want to go back to that.

17 Do you regard yourself as a feminist?

18 A. Yeah, I would call myself a feminist.

19 Q. Do you remember Briana Waters excoriating you for your  
20 conduct with regard to her boyfriend as being very much  
21 anti-woman and anti-feminist?

22 A. I didn't remember that until you -- you know, basically  
23 that language you are using is familiar to me, and that  
24 reminds me that happened. I didn't have an independent memory  
25 of that until you mentioned it.

1        Again, I will just reiterate that if she excoriated me, I  
2 did not realize that Justin Solondz was her boyfriend. In  
3 fact, Justin told me otherwise.

4    Q. I am sorry?

5    A. Justin told me otherwise. Not in the course of, you  
6 know, in the course of building a friendship. He told me that  
7 he was going through problems with his ex-girlfriend, who was  
8 unhappy because they broke up.

9    Q. This was the same time that you were planning and  
10 committing an arson, isn't that correct, in the same time  
11 period?

12   A. Over the course of weekends that I spent there, I came to  
13 understand that he was having tension with this close friend  
14 who he had been in a relationship with, and they were  
15 transitioning out of that relationship.

16   Q. That's what you say he told you?

17   A. That is what I say he told me, yes.

18   Q. Am I correct that you are now seeming to recall that there  
19 was some unkind things said to you by Briana Waters relating  
20 to what she regarded as your having a sexual affair with her  
21 boyfriend? Are you recalling that now?

22   A. Just to make it clear, you've triggered a very hazy memory  
23 of something that could have happened. Generally, I wouldn't  
24 put such a hazy memory out there without being much more sure  
25 of it. But that sounds somewhat familiar to me, yes.

1 Q. When you were asked the question yesterday, and again  
2 today, about bearing any ill will toward Briana Waters, is it  
3 fair to say that it would be a normal human reaction to bear  
4 some ill will toward a person who was calling you really  
5 unpleasant names, names that -- not dirty words, but  
6 pinpointing or describing your unprincipled behavior, and  
7 somebody as to whom you might want to -- think you might be  
8 feeling some ill will? If I were to call you those names, you  
9 wouldn't like that, would you?

10 A. There was a number of questions there.

11 Q. You are right, and I am going to withdraw them all and try  
12 to make it clearer.

13 A. Okay.

14 Q. It seems to me your memory of being excoriated by Briana  
15 Waters is now being somewhat revived or being refreshed; is  
16 that fair to say?

17 A. I don't have any independent memory of that. You have  
18 reminded me of something hazy in the back of my mind. So  
19 hazy, I wouldn't normally acknowledge it, put it out there  
20 without being much more sure of it.

21 Q. And is it your testimony that however hazy that memory  
22 might be, that that would not, in any way, have triggered, in  
23 your mind, some ill will from you to Briana Waters?

24 A. I think if I felt that there was a genuine  
25 misunderstanding happening, I wouldn't bear ill will. I also,

1 you know, because I have conflict with people, doesn't mean  
2 that I hate them.

3 Q. If somebody called you an unprincipled slut, or words to  
4 that effect, do you think you might bear ill will toward such  
5 a person?

6 A. If such a person had information that was inaccurate, I  
7 would not bear ill will towards that person.

8 Q. What if a person had information that was accurate, based  
9 on the fact that you had spent time in the bus, in his bed,  
10 would that make a difference?

11 A. If I was an unprincipled slut, would it bother me to be  
12 called that?

13 Q. Yes.

14 A. I don't know, because I am not an unprincipled slut.

15 Q. And that's not what happened, you weren't called that in  
16 so many words by Briana Waters?

17 A. I don't have a particular -- unprincipled sounds familiar.  
18 Slut, I don't know.

19 Q. And who is Jeff Hogg?

20 A. Jeff Hogg is my ex-boyfriend.

21 Q. Another ex-boyfriend -- I am sorry. How many  
22 ex-boyfriends have you had since 1996?

23 MR. FRIEDMAN: Objection, Your Honor.

24 THE COURT: Is this thing relevant about this case?

25 MR. BLOOM: Of course, Judge, this is a woman who

1 cheated.

2 THE COURT: I don't need you to editorialize  
3 anything. I want you to -- if we are talking about a point in  
4 time over the timeframe, let's keep it to that. Let's not do  
5 a life history here.

6 BY MR. BLOOM:

7 Q. Your relationship, you have no respect of the boundaries  
8 that women have with their men. If a man interests you,  
9 that's fair game, is that fair to say?

10 A. No.

11 Q. Jeff Hogg, ex-boyfriend, right?

12 A. That's correct.

13 Q. And he's now with somebody named Cecilia; is that correct?

14 A. That's correct.

15 Q. And they have a baby; is that correct?

16 A. That's correct.

17 Q. And you, while you are in jail, are able to make telephone  
18 calls; is that correct?

19 A. That's correct.

20 Q. You are able to send e-mails; is that correct?

21 A. That's correct.

22 Q. And have you made telephone calls to their home?

23 A. No.

24 Q. Have you sent e-mails to their home?

25 A. I don't know what computer Jeff uses to read my e-mails.

- 1 Q. Have you sent e-mails to him?
- 2 A. Yes.
- 3 Q. How many?
- 4 A. I don't know.
- 5 Q. What month was it, or date, that you -- I think you
- 6 described it as self surrendered. Is that the correct phrase?
- 7 A. I don't know what the correct phrase is.
- 8 Q. How would you describe the day that you decided to start
- 9 doing your time?
- 10 A. How would I describe it? Self-surrender is what I call
- 11 it.
- 12 Q. Self what?
- 13 A. I think there's a slightly different term the BOP uses.
- 14 Q. So when I just said self-surrender and you didn't
- 15 recognize the term, it's a term that you used, right?
- 16 A. I didn't know if you were trying to get to the technical
- 17 BOP term.
- 18 Q. You turned yourself in so you could start doing your time
- 19 for which you are getting credit now; is that correct?
- 20 A. I hop so.
- 21 Q. You've not been sentenced yet; is that correct?
- 22 A. That's correct.
- 23 Q. In fact, your sentence keeps getting put off, doesn't it?
- 24 A. Yes.
- 25 Q. And the reason it gets put off is until after Briana

1 Waters' trial is over?

2 A. That's correct, yeah.

3 Q. And that's happened maybe twice?

4 A. I think so, yes.

5 Q. And you've been ready for sentence, and then you come to  
6 I learn that Briana's trial is going to be put over to another  
7 date, to a later date, right? And then your sentence will be  
8 put over until after that; is that correct?

9 A. That's correct.

10 Q. So they have that, is it correct, in your mind, they have  
11 that hanging over your head; that you won't get sentenced  
12 until you come in here and you testify against Briana Waters?

13 A. That's correct.

14 Q. We will get back to that in a little while. But for now,  
15 you have, what's called self surrendered -- what month was  
16 that?

17 A. I self-surrendered in January 2007.

18 Q. A little over a year ago?

19 A. A little over a year ago.

20 Q. In that period of time, how many e-mails have you sent to  
21 Jeff Hogg, your former boyfriend?

22 A. Let's see, maybe 30; I am not sure.

23 Q. And is it correct to say, has he sent e-mails back to you?

24 A. We communicate.

25 Q. And it's legitimate, you don't have to do it in a

1 clandestine way. The jail knows, they have such a program  
2 where they -- where they permit e-mail communication with a  
3 prisoner and somebody on the outside?

4 **A.** That's correct.

5 **Q.** And I presume that they censor it, they clear both  
6 incoming and outgoing, correct?

7 **A.** That's what I think. But they don't tell me how they do  
8 things at the BOP.

9 **Q.** But you assume that's true?

10 **A.** I assume that's accurate.

11 **Q.** These approximately 30 e-mails that you've sent to Jeff,  
12 has he responded and told you that Cecilia is not at all happy  
13 with your contacts with him?

14 **A.** I don't know if he did that in those e-mails. I know that  
15 Cecilia doesn't like our interaction, that's true.

16 **Q.** But she being a woman and he being your ex-boyfriend, it  
17 doesn't matter to you what she thinks, does it?

18 **A.** Jeff Hogg has been a dear friend for 14, 15 years.

19 **Q.** Has he made it clear that his partner, his life partner, a  
20 woman who has born his child, does not want you to be in touch  
21 with him? Has he made that clear to you?

22 **A.** I know that Cecilia doesn't like me. Yeah, I know that  
23 she doesn't want me to be in touch with him, and I also know  
24 that Jeff wants to be in touch with me.

25 **Q.** So it pleases you, you get support from him, is that



1 correct, emotional support?

2 A. I get friendship from him.

3 Q. Do you have any kind of arrangement with him where he will  
4 give you support of one kind or another and you do something  
5 in return?

6 A. No, other than friendship. That's what friendship is.

7 Q. Are you aware whether or not he has been involved in  
8 activities that might be questionable?

9 A. Jeff went to the book club meetings.

10 Q. Have you told that to anyone before just now?

11 A. Yes.

12 Q. You told it to the authorities?

13 A. Yes.

14 Q. There's no arrangement between you two, that you will go  
15 no further than that, than saying he went to the book club  
16 meetings, if he remains in support of you?

17 A. No, there's no arrangement between us.

18 Q. So as of now, we've so far talked about Chelsea Gerlach  
19 and Stan Meyerhoff, your present fiancée, they were breaking  
20 up so it was okay for you to take up with him. We have that,  
21 right?

22 A. I am sorry --

23 Q. Was that your position, that Chelsea Gerlach and Stan  
24 Meyerhoff had been a couple for quite some time -- is that  
25 correct, were a couple for quite some time?

- 1   **A.**   They were a couple for quite some time.
- 2   **Q.**   And there came a time when he became your boyfriend and  
3   then your fiancé; is that correct?
- 4   **A.**   Eventually, yes.
- 5   **Q.**   Are you married to him?
- 6   **A.**   No.
- 7   **Q.**   Do you wear a wedding ring?
- 8   **A.**   I have a band on my finger that signifies our engagement.
- 9   **Q.**   Does he have one too?
- 10   **A.**   No.
- 11   **Q.**   Is it an engagement ring or does it look like a wedding  
12   ring?
- 13   **A.**   Um, the band on my finger?
- 14   **Q.**   Yes.
- 15   **A.**   It's like a dime store thing that I bought.
- 16   **Q.**   And you wear it on your -- this finger?
- 17   **A.**   I wear it on my ring finger, yes.
- 18   **Q.**   So you are very closely and intimately involved with him;  
19   is that correct?
- 20   **A.**   Stan and I have been partners for seven years.
- 21   **Q.**   I am sorry?
- 22   **A.**   Stan and I have been together for seven years.
- 23   **Q.**   And did it come as a shock to you when you learned that he  
24   was telling the authorities about your criminal activity?
- 25   **A.**   I don't know what Stan told the authorities about my

1 criminal activities to this day. That Stan cooperated was  
2 probably less shocking than the arrest happening all together.  
3 But it was, you know, upsetting, definitely.

4 Q. From the time he was arrested, December 7, to the time you  
5 first spoke to law enforcement, February 21 of '06,  
6 approximately two plus months, did you visit him in jail at  
7 any time?

8 A. Before I spoke to the FBI?

9 Q. Yes.

10 A. I think I had seen him once.

11 Q. And did he inform you at that time that he had been giving  
12 information to the FBI about you?

13 A. When I saw him?

14 Q. Yes.

15 A. No.

16 Q. Did there come a time when he told you he was giving  
17 information to the FBI?

18 A. He said something during that very brief phone  
19 conversation I had with him, the day after, something very,  
20 like fatalistic, that was concerning to me, and I remember  
21 clearly having a conversation with him where he told me I  
22 betrayed everyone.

23 Q. And by betrayed, you took that to mean what?

24 A. That he was cooperating with the authorities.

25 Q. And did there come a time when you came to believe or

1 understand or know that he had betrayed you?

2 **A.** I don't know what Stan has told them about me. Initially  
3 I didn't want to say to him, do you remember the time you  
4 drove me to Olympia and dropped me off so I would go to an  
5 arson, because I didn't really want to trigger that memory.

6 Since then we haven't talked in particular about whether  
7 or not he testified against me or cooperated against me. At  
8 times I thought he did and at times I thought he didn't, and I  
9 truly don't know.

10 **Q.** Did there come a time when he told you that he was talking  
11 to the FBI and naming names, and you went, like pointing to  
12 yourself, and he nodded his head? Did something like that  
13 happen?

14 **A.** That might be true, yes.

15 **Q.** When did that happen?

16 **A.** That might have happened in that visit.

17 **Q.** At that visit in jail?

18 **A.** I think I pointed to myself. I was trying to get from him  
19 whether or not definitely.

20 **Q.** Whether or not he was telling the police, law enforcement  
21 officials, about his fiancée's involvement in criminal  
22 activity. That's what you were trying to find out from him;  
23 is that correct?

24 **A.** We weren't engaged at that point, but yes.

25 **Q.** He was your boyfriend at that time?

1   **A.** Yes, I wanted to know -- yes.

2   **Q.** It was difficult to communicate, and it still is when you  
3 do communicate, because the authorities -- you believe that  
4 the authorities listen to and/or read the interactions between  
5 you and other people?

6   **A.** Yes, I have that. I don't have any communication with  
7 Stan right now, and I haven't had unmonitored communication  
8 with Stan since he was arrested.

9   **Q.** You haven't had unmonitored?

10   **A.** Since he was arrested.

11   **Q.** You would always be concerned that you would have to be  
12 very cautious about how you said things and what you said, is  
13 that fair to say?

14   **A.** No. Most of my conversations aren't something where it  
15 would be a concern whether or not it was monitored.

16   **Q.** You keep it general and personal as opposed to talking  
17 about criminal defense; is that correct?

18   **A.** We have -- yeah.

19   **Q.** Have you belonged to an organization that would be  
20 described as a zero population organization?

21   **A.** I don't think so. I don't know.

22   **Q.** I am sorry, you don't think so?

23   **A.** Do you mean like -- no, I don't think so.

24   **Q.** Meaning no children; that there are enough people on the  
25 earth that people shouldn't have children.

1 MR. FRIEDMAN: Objection, Your Honor, this is  
2 irrelevant.

3 MR. BLOOM: It is not irrelevant.

4 THE COURT: I don't know if it is or not because I  
5 don't know where you are headed with this, and I don't want  
6 you to explain it at this point in time.

7 Can we go on with something else and I will take it up at  
8 the break?

9 BY MR. BLOOM:

10 Q. You know, do you not, from looking at her website that  
11 Ms. Waters has a child, a three-year-old child? You know  
12 that, do you not?

13 A. I know she has a child.

14 Q. Am I correct that there have been times when you have  
15 expressed disdain for people who have children and called them  
16 breeders, in a derogatory manner?

17 A. I don't think I have called people breeders.

18 Q. Have you thought, in those terms, that people should not  
19 have children?

20 A. There were always people involved in Earth First who felt  
21 that because overpopulation is a significant environmental  
22 issue, that the key was to not have children. That was never  
23 a particular belief of mind. Just generally, I don't think  
24 that -- it seems like kind of bizarre to think that if you had  
25 a vasectomy, therefore you would solve the environmental

1 problems of the environment. I never really supported that  
2 idea.

3 Q. And you are not a person who has referred to people with  
4 children as breeders?

5 A. I am not saying the word never came out of my mouth, but I  
6 don't think -- it's not what I think of people who have  
7 children.

8 Q. Now, you are a person who grew up in a fairly well-to-do  
9 home; is that correct?

10 A. No.

11 Q. Your parents are both partners a law firm, a successful  
12 law firm in Spokane?

13 A. They are now.

14 Q. They have been lawyers for quite some time?

15 A. My father has been a lawyer for a long time, and my mother  
16 finished law school when I was in junior high. There was four  
17 of us, and my father's sole practitioner business was not  
18 immediately successful. So I don't consider that I grew up  
19 rich and spoiled.

20 Q. Well, did I say rich and spoiled?

21 A. No, you didn't say that.

22 Q. Did you grow up in an upper middle class home?

23 A. No, I would say we were middle class during my youth.

24 Q. Do you remember when you were an editor for the Earth  
25 First Journal? Do you remember that period?

1   **A.** Of course, yes.

2   **Q.** Do you remember writing some pieces for the Earth First  
3 Journal?

4   **A.** Yes.

5   **Q.** Do you remember writing: As much as I rage against it, my  
6 family is upper middle class, white and typical?

7   **A.** By the time I wrote that, my family probably would be  
8 considered upper middle class.

9   **Q.** That would be March of 1997?

10   **A.** Yes.

11   **Q.** You didn't say that they were upper middle class now.

12   **A.** They are upper -- I mean, I don't know how much my parents  
13 earn. I think they are upper middle class. That would be  
14 fair probably in most people's terms.

15   **Q.** You said a few moments ago you are not spoiled and rich;  
16 is that correct?

17   **A.** I said I didn't grow up spoiled and rich, but neither am I  
18 spoiled and rich.

19   **Q.** And you grew up in Spokane; is that correct?

20   **A.** That's correct.

21   **Q.** You were a good student; you are a smart person?

22   **A.** I was a good student, yes.

23   **Q.** You were on the debating team?

24   **A.** Yes.

25   **Q.** And you spent some of your time as a racing skier; is that



1 correct?

2 **A.** I ski raced as a child, yes.

3 **Q.** When you went to -- is it University of Oregon?

4 **A.** I am sorry, what?

5 **Q.** The college was where?

6 **A.** I went to the University of Oregon.

7 **Q.** Were you on the debating team there?

8 **A.** Well, between working part-time to pay for my tuition, the  
9 student loans I was taking out, my parents' support and the  
10 academic scholarships that I had, I was pretty focused on my  
11 studies and was not able to continue to be at the University  
12 of Oregon.

13 **Q.** Were you a debater in high school?

14 **A.** Yes. And I did debate, I think, my first quarter at the  
15 University of Oregon.

16 **Q.** So you have debating skills; is that correct?

17 **A.** Yes.

18 **Q.** And you are a writer, that's correct?

19 **A.** That's correct.

20 **Q.** A journalist?

21 **A.** That's correct.

22 **Q.** And you have a way with words, do you not?

23 **A.** Yeah. That didn't sound like I did, but yes.

24 **Q.** I am sorry?

25 **A.** That didn't sound very eloquent, but yes.

1 Q. You have a way with the written word and spoken word; is  
2 that correct?

3 A. I feel like I have kind of lost my public speaking  
4 abilities, but, yes, I was practiced at public speaking when I  
5 was in high school and I was quite good at it, yes.

6 Q. Well, you have an audience of 14 people here, before whom  
7 you are speaking. Now, you know that, don't you? You are  
8 very conscious of that.

9 A. Yes.

10 Q. As you say, you haven't been sentenced yet. Correct me if  
11 I am wrong. The deal you have is that the best sentence you  
12 can get is three years in prison, and the worst sentence you  
13 can get is five years in prison, if the deal -- if you stay  
14 with the deal. Is that your understanding?

15 A. My understanding is that it's a closed deal, and the best  
16 sentence I can get is three years, and the longest I could do  
17 is five.

18 Q. Is it correct to say it's Judge Burgess that will be  
19 sentencing you?

20 A. Yes.

21 Q. It was before him that you pleaded guilty?

22 A. That's correct.

23 Q. Is it correct that one of the things, one of the inputs in  
24 your sentence is what these men, sitting at this table, tell  
25 the man sitting up there on the bench about what they

1 recommend?

2 **A.** That's my understanding how it usually works, yes.

3 **Q.** So, is it fair to say that you have a high degree of  
4 incentive to please the people sitting at this table with your  
5 testimony?

6 **A.** I am not particularly motivated by my plea agreement. My  
7 plea agreement, I am committed to fulfilling. I feel my  
8 emotional and moral commitment is due to my responsibility to  
9 the researchers.

10 **Q.** You know what, could I just ask you to repeat the last  
11 part and pull the microphone a little closer?

12 **A.** Yeah.

13 **Q.** Thank you.

14 **A.** I am committed to the plea agreement and my emotional and  
15 moral commitment, which really has really driven me to be  
16 fully honest to the researchers who I victimized.

17 **Q.** And it's not relevant to you whether you get three years  
18 or five years?

19 **A.** It's of course relevant to me. I'd rather do three years  
20 in prison than five, but I can do no more than five years,  
21 even if I were to come in here and testify unconvincingly.

22 **Q.** What if you were to testify that I made it up about Briana  
23 Waters, I wasn't telling the truth, and I am not telling the  
24 truth? Would it be three years or five years, or the deal is  
25 over and 35 years?

1   **A.** The deal would be over if I said that I lied.

2   **Q.** So, your story that you told, beginning in February of  
3   2006, that Briana Waters was involved in the arson that you  
4   committed, that's "the truth," that's what you have to testify  
5   to to keep your deal, is that correct?

6   **A.** Yes.

7   **Q.** And it's also true, if I ask you or Mr. Friedman asks you,  
8   are you telling the truth, of course you are going to say,  
9   yes, I am telling the truth? That's part of your  
10   understanding, right, not only tell the truth, but say you are  
11   telling the truth?

12   **A.** They are one and the same to me.

13   **Q.** Now, I notice that yesterday and today you are wearing, I  
14   guess, what would be called prison attire?

15   **A.** That's correct.

16   **Q.** Where are you, at Sea-Tac?

17   **A.** Uh-huh.

18   **Q.** Is that a federal facility?

19   **A.** That's a Federal Detention Center.

20   **Q.** Is it your understanding that you had to wear prison  
21   clothes to come and testify?

22   **A.** I don't know.

23   **Q.** Did you discuss with Mr. Friedman whether or not you could  
24   wear street clothes, civilian clothes?

25   **A.** I wanted to wear street clothes, yes.

1 Q. And how was it -- who said you can't?

2 A. I don't know why I could not. Mr. Friedman told me it  
3 would be important for me not to be wearing street clothes, as  
4 though I were trying to deceive about where I am.

5 Q. Trying to deceive. Did Mr. Friedman tell you anything,  
6 like you would look more sympathetic and tragic if you wore  
7 prison clothes?

8 A. I didn't want to look sympathetic and tragic. I wanted to  
9 look normal.

10 Q. That's what you wanted. My question is, did he say to  
11 you, no, I want you to look pathetic, because that way the  
12 jury will relate to you better?

13 A. No, he definitely never said anything about sympathy.

14 Q. But in some way or another, the authorities were  
15 responsible for how you come to court, how you are dressed  
16 when you come to court, no civilian clothes; is that correct?

17 A. Yes, I am not wearing civilian clothes. It was conveyed  
18 to me I shouldn't wear civilian clothes. I think an effort  
19 would have had to have been made to put me in civilian  
20 clothes.

21 Q. A little louder?

22 A. I think an effort would have had to be made for me to be  
23 able to wear civilian clothes also.

24 Q. And the other would be your family or your friends --

25 A. I think the BOP would have had to approve of it, but I

1 don't know.

2 Q. I'm sorry?

3 A. I think the BOP or the judge or someone would have had to  
4 approve it. A request would have to be made to someone, I  
5 don't know, and that would have to be approved. And I don't  
6 know what the criteria was, and it wasn't that important to  
7 me.

8 Q. And is it, in your mind, that that wouldn't have been  
9 easily dealt with by a request in to the judge or to the  
10 Bureau of Prisons or whomever?

11 A. I don't deal with the BOP very much. Nothing is easily  
12 dealt with by the BOP.

13 Q. What I'm saying, if you wanted to wear civilian clothes --  
14 and you told that to Mr. Friedman; is that correct?

15 A. Yes.

16 Q. And for reasons you don't know, that got nixed. They said  
17 it's not going to happen, you are going to wear jail clothes?

18 A. The reason that I was told was that because I did not want  
19 to be up here, to be hiding that I was in prison or hiding  
20 anything.

21 Q. It didn't occur to you that somebody, like me, or Mr. Fox,  
22 would ask if you are in jail? The question wouldn't have come  
23 up. You thought you would have just stood there -- or sat  
24 there, rather, in civilian clothes, and it wouldn't have come  
25 up about where you are living?

1 A. I don't know.

2 Q. Was that in your mind?

3 A. I thought it would be -- I don't know what the standard  
4 protocol is. I thought it would be out there that I was in  
5 prison, yes.

6 Q. And you in fact put it on your website, that you were self  
7 surrendering, a little over a year ago and that you were going  
8 to be in jail?

9 A. My friends put it on that website. I didn't put it there,  
10 but they did.

11 Q. You are aware, it's public information that you have been  
12 in jail for a little over a year?

13 A. Yes.

14 Q. Now you say you haven't been in touch with Jennifer Kolar  
15 since the arson?

16 A. No. One time after the arson I saw her.

17 Q. I am sorry, you did say that. When was that?

18 A. At a meeting in Sisters, Oregon, shortly after the arson.

19 Q. That was a book club meeting?

20 A. Yeah.

21 Q. About how long after the book club meeting was that?

22 A. I am not sure. I think it was shortly thereafter, a  
23 number of days.

24 Q. A week, two weeks, three weeks, four weeks, in that range?

25 A. Closer to a week than four weeks, but I don't know.

1 Q. That was in a small town in Oregon called Sisters?

2 A. That's correct.

3 Q. Was it near where you were living?

4 A. No, I wasn't living there at the time.

5 Q. Where were you living?

6 A. I lived in Eugene through December 2001.

7 Q. So you were there about a week after, a week or so after  
8 the arson; is that correct?

9 A. At a meeting, yes.

10 Q. So you were still into book clubs -- what's also called  
11 incubator meetings; isn't that correct?

12 A. I never heard that term before the pleadings. I think I  
13 saw it in the pleadings.

14 Q. Let's call it book club meetings. The reason it was  
15 called book club, they didn't want to call it arson club,  
16 right?

17 A. No, it wasn't arson club.

18 Q. It was about actions and how radical environmentalists,  
19 such as yourself, were going to bring down the  
20 anti-environment establishment, is that what those meetings  
21 were about?

22 A. It was also about philosophy and, yes, I was a radical  
23 environmentalist.

24 Q. So a week after that -- let me withdraw that.

25 The day after the arson, you saw newspaper articles,



1 television reports about the arson; is that correct?

2 **A.** Yes, I think so.

3 **Q.** Was it then that you started to feel bad about the arson  
4 and the results of it and the books that were lost?

5 **A.** No. I kind of freaked out when I heard the firefighters,  
6 and I at first didn't read about the books that were lost and  
7 the other facilities that were involved.

8 **Q.** Please keep your voice up.

9 **A.** Oh, okay.

10 **Q.** Whatever it was you felt, you weren't feeling remorse at  
11 the time you went to the book club meeting in Sisters, were  
12 you?

13 **A.** I don't know what I felt at that time.

14 **Q.** You were still into it; is that correct?

15 **A.** Into arson, no.

16 **Q.** No, into the book club meeting and theorizing how to  
17 undermine the corporate establishment.

18 **A.** I was still radical at that point, yes.

19 **Q.** Who else was at that meeting?

20 **A.** Also at that meeting was Nathan Block, Joy Zacher, Chelsea  
21 Gerlach, myself, Jeff Hogg. A woman named Diana Robin. Jen  
22 Kolar came at some point.

23 **Q.** I am sorry?

24 **A.** Jen Kolar came at some point.

25 Did I say Stan Meyerhoff?

1 Q. You didn't say that.

2 A. Daniel McGowan.

3 THE COURT: Let's stop at this point.

4 MR. BLOOM: Can I just ask one question?

5 BY MR. BLOOM:

6 Q. Briana Waters, was she there?

7 A. No.

8 THE COURT: Let's take the morning recess. Of course  
9 you don't discuss the case. Leave your books on the chair,  
10 and I will have you back in here.

11 THE CLERK: All rise. Court is in recess.

12 (Morning recess.)

13 (Jury not present.)

14 THE COURT: You may be seated. Ready to continue,  
15 Mr. Bloom?

16 MR. BLOOM: Yes, I am.

17 (Jury present.)

18 THE COURT: You may be seated.

19 Mr. Bloom.

20 BY MR. BLOOM:

21 Q. We left off with the meeting at Sisters, Oregon, and it  
22 was a week or so after the arson that you had committed.

23 Prior to that, there were four other book club meetings;  
24 is that correct?

25 A. Yes.

1 Q. The first one was where and when?

2 A. Eugene, Oregon, March 2000.

3 Q. Who was there?

4 A. At the first meeting was me, Jeff, Vernell Lundberg, Al  
5 Decker, Ron Coronado, Avalon, a man whose name I don't know  
6 but we called Tumbleweed, Suzanne Savoie. I am not sure if  
7 Nathan and Joy were there. A man from Tucson, Arizona, who I  
8 knew as Rubin, and two men from Santa Cruz, California. Did I  
9 say Diana Robin? She was there, and I think I said Jeff Hogg.

10 Q. You did. When was that?

11 A. March 2000.

12 Q. Briana Waters, was she there?

13 A. No, she was not there.

14 Q. In what kind of location was this meeting?

15 A. There was a conference going on at the same time, which is  
16 why people were in town.

17 Q. Could you speak a little louder.

18 A. There was a conference going on at the same time, which is  
19 why people were in town. It was at the hotel. I think it  
20 might have been Vernell Lundberg and Al Decker's hotel room,  
21 but I am not sure.

22 Q. So this group of people you named, about 13 to 15 people,  
23 met in a room?

24 A. Yes.

25 Q. And you didn't meet in a room like a public room, you met

1 in a private room; is that correct?

2 **A.** Yes, it was a hotel room.

3 **Q.** Now, there came a time when you say that there was -- the  
4 first time you say that you met Briana was at a Denny's in  
5 Olympia; is that correct?

6 **A.** Yes.

7 **Q.** And there was a meeting, you say, involving five people;  
8 is that correct? Or was it four people?

9 **A.** There were -- I think there were five people there. I  
10 believe Jen Kolar was there, but I am not sure, and I would  
11 not necessarily characterize it as a meeting, as in where  
12 business was discussed but a meeting as in people met up  
13 there.

14 **Q.** Could I ask you, don't drop your voice, please.

15 So you met there. How long did you stay? You said it was  
16 a Denny's?

17 **A.** A Denny's, yes.

18 **Q.** Is there a chain of restaurants also called Perkins?

19 **A.** Yes.

20 **Q.** Was it a Perkins or was it a Denny's?

21 **A.** I believe it was a Denny's.

22 **Q.** How long did you stay at Denny's on that occasion?

23 **A.** Maybe an hour, I am not sure.

24 **Q.** Did you have breakfast, lunch, whatever?

25 **A.** It was evening. I think someone ordered -- I think

1 someone ordered some food because it was weird if we sat there  
2 without ordering food.

3 Q. You didn't want to look weird, right?

4 A. No, I didn't.

5 Q. Didn't want to draw attention to yourselves; is that  
6 correct?

7 A. That's correct.

8 Q. Somehow Avalon -- who organized this meeting? Was it  
9 Avalon?

10 A. I don't know, I was dropped off by Stan. I don't know who  
11 organized the meeting.

12 Q. Was Avalon one of the people that was there?

13 A. Avalon was there.

14 Q. He was involved in the planning of this arson; is that  
15 correct?

16 A. I believe he was. He was involved completely from the  
17 time that I was involved.

18 Q. You know that he has written a manual on how to do arsons;  
19 is that correct?

20 A. I believe that's true, yes.

21 Q. And did anyone else write such a manual that you know of,  
22 Stan Meyerhoff?

23 A. I think Stan and Avalon worked together on the manual,  
24 although Stan's not a very talented writer. He is now, but he  
25 was not at that point, and I think Avalon did the writing and

1 Stan had the knowl edge.

2 Q. Now, one of the things that I think you said is that at  
3 all the meetings, the book club meetings, securi ty was a big  
4 time event; is that correct?

5 A. No. At the later meetings, it became increas ingly  
6 important.

7 Q. And it wasn't just securi ty at the book club meetings, it  
8 was securi ty in general about how you contacted people or  
9 declined to contact people and how you would do that and how  
10 you would do encryptions and things of that nature; is that  
11 correct?

12 A. Yes. Securi ty was important.

13 Q. So by May of 2001, there was a lot of encrypting and  
14 secrecy going on amongst this group of people; is that  
15 correct?

16 A. No. I only ever received one encrypted e-mail message  
17 that I remember.

18 Q. I'm sorry, could you say that louder?

19 A. No, I only ever received one encrypted e-mail message that  
20 I remember.

21 Q. Were there concerns about securi ty, people who said don't  
22 make phone calls, don't do e-mails?

23 A. Yes, that was a big concern.

24 Q. Right. Did it strike you as odd that people who were  
25 going to do some kind of criminal action were meeting in a

1 public place like Denny's?

2 **A.** No, that was consistent with our security culture. Not  
3 talking about criminal activity at that place was important,  
4 but meeting in public, not associated with outdoor places,  
5 careful where we had conversations.

6 **Q.** So when you left Denny's, did you go off to the woods  
7 somewhere and talk about it?

8 **A.** I don't remember for sure where we went.

9 **Q.** Well, think about it. You've been able to give -- just a  
10 few minutes ago, I asked you who was at the first book club  
11 meeting, and you were able to remember those details pretty  
12 well; is that correct?

13 **A.** I remember that clearly, yes.

14 **Q.** Now, the first meeting where you claim that's the first  
15 time you met Briana Waters, did you talk about any kind of  
16 arsons while you were at Denny's?

17 **A.** I don't think we talked about arson explicitly or  
18 criminality very much at all while we were at Denny's.

19 **Q.** So my question is, when you left Denny's, did you go  
20 somewhere else so that you could talk in a place where the  
21 waiters weren't listening?

22 **A.** Probably. That would make sense. I had no idea what the  
23 plan was, so I had to be told at some point.

24 **Q.** Well, whatever you were told or not told, I am asking you  
25 to search your memory. Did you leave Denny's and go to a

1 place where you could discuss the arson that you say was being  
2 planned? Did you do that?

3 **A.** The next clear memory I have is running on the track the  
4 next morning near Briana's house.

5 **Q.** Now, that was a person who turned out to be the girlfriend  
6 of Connor or Justin; is that correct?

7 **A.** I am sorry, I don't know what the status of their  
8 relationship was at that point.

9 **Q.** Now, you don't remember -- let me withdraw that.

10 Are you saying you don't remember what happened from the  
11 time you left Denny's to the time you were running on the  
12 track? Is that what you are saying?

13 **A.** I have a clear memory of being at Denny's, and I have a  
14 clear memory of running on the track, yes, that's what I am  
15 saying.

16 **Q.** Now, prior to the events of May of 2001, had you ever  
17 committed an arson?

18 **A.** No.

19 **Q.** So this is -- the events surrounding your involvement in  
20 the arson would be something that you would have a clear  
21 memory, a distinct memory about; is that correct?

22 **A.** The memories that I have are distinct, yes.

23 **Q.** But you are saying the events between leaving Denny's and  
24 running on the track, you have no clear memory of that?

25 **A.** My memory tends to work in not movie length feature. It's



1 shots of things I remember.

2 Q. Now, there came a time starting December 7, 2005, when  
3 Stan got arrested, and other people got arrested as well, that  
4 you must have thought, uh-oh, I could be next?

5 A. Yes.

6 Q. Did you start thinking about what had you done?

7 A. Yes.

8 Q. Did you discuss that with your parents?

9 A. I discussed at one point the arson with my parents, as my  
10 attorneys. I asked them for legal advice.

11 Q. I am sorry, could you say that again?

12 A. We were very explicit that I was having a privileged  
13 attorney-client conversation with them.

14 Q. With your parents?

15 A. My parents acted as my attorneys, yes.

16 Q. So you said to them -- these are your parents, your mother  
17 and father -- I want to make sure I can trust you to not give  
18 out this information, so you said let's be attorney/client?  
19 Is that more or less what you are saying?

20 A. No. I was saying that I needed legal advice, and I turned  
21 to my parents. Obviously, there's a blending of roles there  
22 but --

23 Q. When was this in relation to December 7th? When did this  
24 conversation take place?

25 A. I am not sure. It was after I returned to Spokane.

1 Q. When was that?

2 A. I think the date was like December 11th or 10th. I am not  
3 sure.

4 Q. Three, four or five days after Mr. Meyerhoff had been  
5 arrested?

6 A. Yeah, both Mr. Meyerhoff and I had cleared our schedules  
7 because we both intended to do a bit of traveling over that  
8 holiday. I was not expected back to work in Washington, D.C.  
9 until January.

10 Q. You were going to go to a wedding in Mexico; is that  
11 correct?

12 A. We were going to go to a wedding, and then we were going  
13 to go to his mother's house, and then we were going to go to  
14 my parents' house.

15 Q. And the wedding in Mexico, was it Jeff or Josh?

16 A. No, it was in Costa Rica. It was a friend, Josh Laughlin.

17 Q. And Katie Higgins?

18 A. That's correct.

19 Q. And they live in Eugene?

20 A. They live in Eugene, yes.

21 Q. Did you ever speak to FBI agents in Eugene, after February  
22 21st of 2006?

23 A. Did I ever speak to FBI agents in Eugene?

24 Q. Yes.

25 A. No. I believe that there may have been agents at the

1 Portland office at, at least one of the interviews that I did.

2 Q. When was that?

3 A. The interview?

4 Q. Yes.

5 A. I am sorry, I don't have the dates of the interviews  
6 readily available.

7 Q. Was that at a time when you were staying with Josh and  
8 Katie?

9 A. No. The only interviews I ever did were in Seattle, one  
10 time I went to Olympia, but I did not speak with the FBI while  
11 I was staying with Josh and Katie.

12 Q. Now, you saw Jennifer Kolar in May of 2001 at Sisters,  
13 Oregon; is that correct?

14 A. Yes.

15 Q. And did you and she have any private conversations about  
16 the arson that you had done the week before?

17 A. A group of us spoke at one point. It wasn't just Jen and  
18 I.

19 Q. Was this in a room in a hotel, or where was it?

20 A. We were camping, and we walked up the road a little bit  
21 away from the people who were in the book club but not  
22 involved in the arson.

23 Q. Who was in this group of people?

24 A. That walked away together?

25 Q. Yes.

1   **A.**   Myself, Jen Kolar.   Avalon, Briana and Justin were not  
2   there.

3   **Q.**   I am sorry.   Could you start over.   You said Jen Kolar,  
4   and then you said Avalon, Justin and Briana, thinking that you  
5   were going to say that they were there, but they were not  
6   there?

7   **A.**   They were not there.

8   **Q.**   Avalon, Justin, Briana were not -- were they at the -- any  
9   of them at the general meeting?

10   **A.**   My co-conspirators were not there.

11   **Q.**   Your co-conspirators, the people you were saying that you  
12   committed the crime with; is that correct?

13   **A.**   Right.   When I am thinking about who was there, I am  
14   thinking about the people involved in the two individual  
15   crimes.   The two people from the University of Washington who  
16   were there were me and Jen Kolar, and then Nathan Block,  
17   Suzanne Savoie, Stan Meyerhoff, Daniel McGowan and I believe  
18   Joy were all there as well.   All of the people involved in the  
19   other half of the two arsons.

20   **Q.**   Now, are those the people who walked away and had a  
21   meeting somewhere?

22   **A.**   Yes.

23   **Q.**   Yourself and Kolar who had burned down the University of  
24   Washington building, right?

25   **A.**   Yes, we were responsible for that in part, yes.

1 Q. Then five people, as you understood it, who had been  
2 involved in the other incident?

3 A. That's what I understood, yes.

4 Q. Was there any discussion at that walk-away meeting that  
5 Justin's car was used at that incident?

6 A. I don't know.

7 Q. Was there any discussion about who had driven to that  
8 location, Jefferson Poplar Farm?

9 A. I don't know.

10 Q. Did you express remorse for what had happened a week or  
11 two earlier at the Center for Urban Horticulture?

12 A. I don't believe I did.

13 Q. Did Kolar do so?

14 A. I don't have a memory of that.

15 Q. Did anyone express remorse in that walk-away group?

16 A. I don't have a particular memory of very much that was  
17 said there.

18 Q. In fact, you were kind of thrilled that you had  
19 accomplished something, weren't you?

20 A. There was definitely a feeling of we accomplished  
21 something, yes. We did something big, yes.

22 Q. And you were proud of yourself, weren't you?

23 A. I would say yeah, at that point I was probably proud of  
24 what I had done.

25 Q. Now, since that day or that meeting -- how long did that

1 meeting go? One day? Two days? Three?

2 **A.** Let's see, we spent at least one night there, maybe two,  
3 in Sisters camping.

4 **Q.** After that meeting, it's your position that you have not  
5 seen Jennifer Kolar since then; is that correct?

6 **A.** That's correct.

7 **Q.** It is your position that there has been no communications  
8 between the two of you?

9 **A.** That's correct.

10 **Q.** Have you come to learn from Mr. Friedman or Agent Halla or  
11 anyone else that, to this day, Jennifer Kolar has not  
12 identified you as being at the UW fire?

13 **A.** I learned that first, I believe, from your pleadings.

14 **Q.** Did you and Jennifer Kolar have some agreement that you  
15 would not name each other if you were ever apprehended?

16 **A.** We all had that agreement.

17 **Q.** You understand that Jennifer Kolar is cooperating with the  
18 United States Government in this arson; is that correct?

19 **A.** In the investigation, yes.

20 **Q.** You understand that she has pled guilty, as you have, to  
21 burning down the Center for Urban Horticulture?

22 **A.** That's correct.

23 **Q.** Can you think of any reason, other than an agreement  
24 between you two, that she has failed to name you as being  
25 involved?

1 A. Maybe she doesn't remember.

2 Q. Jennifer Kolar, not unlike yourself, is a very intelligent  
3 woman; is that correct?

4 A. In my interactions with her, I thought she was smart, yes.

5 Q. She was a Ph.D. candidate at some point; is that correct?

6 A. I know that from your pleadings.

7 Q. You know that she was a -- has a master's degree in some  
8 astrophysics type of study; is that correct?

9 A. I didn't know that except -- no, I didn't really know  
10 that.

11 Q. You know that she has a substantial employment as a  
12 computer person, programmer, expert, you know that, right?

13 A. No, I don't know what she does.

14 Q. You never knew that about her?

15 A. When I was interacting with her and we were friends, I  
16 guess, I think she might have been between jobs, but I am not  
17 sure. I knew that she did computer science type stuff, yes.

18 Q. So, is it your -- I think you said a few minutes ago that  
19 the reason you might ascribe to her failing to identify you is  
20 that she forgot?

21 A. I have no idea. I don't know, I am sorry. I am Lacey,  
22 and not Jen.

23 Q. Did you, Lacey, have a discussion with Jen saying, let's  
24 not name each other?

25 A. No, I never had -- well, I mean, I did the weekend before

1 the arson. I believe we all had that discussion, yes. And  
2 since then, no, never.

3 Q. And you, as a principled person, have abrogated that  
4 understanding, have violated that understanding; is that  
5 correct?

6 A. I broke a promise that I made, yes, in order to tell the  
7 truth here today.

8 Q. And in breaking that promise, you are naming Jennifer  
9 Kolar and she's not naming you? Does that strike you as odd?

10 A. It strikes me as odd that Jen doesn't remember me, yeah.  
11 Although, since she was never in Olympia, she might not  
12 remember me.

13 Q. I am sorry?

14 A. Since she was not -- I'm sorry, she wasn't in Olympia.  
15 She wasn't at Briana's that I remember. I was involved at the  
16 last minute, I believe.

17 Q. You were involved at the last minute, but the week before  
18 you say you were at three meetings?

19 A. A lot of groundwork would have had to go into the arson,  
20 as I understand it, and I was not involved in that sort of  
21 groundwork.

22 Q. Part of the groundwork, is it correct, according to you  
23 was getting a car; is that correct?

24 A. Yeah.

25 Q. Is it correct that in the writings of your



1 boyfriend/fiancee Meyerhoff and Avalon, one of the critical  
2 things they say is you have to have the car arranged, if you  
3 are going to get a car, at least 36 hours beforehand.

4 Do you remember reading that in any manual?

5 A. No. I don't read that type of manual.

6 Q. You were involved in an arson; is that correct?

7 A. If you are talking about that manual they wrote --

8 Q. I am talking about that, yes.

9 A. I have never read it. It doesn't make sense to me. I  
10 can't do that, what is described in there.

11 Q. The manual wasn't just about how to put the device  
12 together to start a fire. It was about preparing to do so; is  
13 that correct?

14 A. I don't know. I have never read it. You've clearly read  
15 it more thoroughly than I have.

16 Q. And you were comfortable going on this action without  
17 having read that; is that correct?

18 A. I never read the manual, that's true.

19 Q. Now, we talked about the first time you spoke to law  
20 enforcement about your involvement in this crime, and that  
21 was, am I correct, about two-and-a-half months after Meyerhoff  
22 and the other people were arrested, February 21?

23 A. Yeah, almost three months, yes.

24 Q. And am I correct that you are saying you've testified  
25 here, that sometime after the arson, May of '05 -- I am sorry,

1 May of '01 -- you began to feel remorse; is that correct?

2 **A.** Yes.

3 **Q.** When was that?

4 **A.** Well, of really significant note in my mind, an odd note,  
5 a jarring note, that has always stuck out in my head --

6 **Q.** A little louder.

7 **A.** One thing that always stuck out in my head was hearing  
8 those radio transmissions of the firefighters, and it's been a  
9 very long process and really -- and also a very important  
10 point was being held to account by the Government. That made  
11 me, you know, look at something that I didn't want to  
12 re-evaluate, unlike Stan who did force himself to re-evaluate  
13 it.

14 **Q.** Well, I think you are saying that that very morning,  
15 hearing the firefighters and hearing that they might be in  
16 danger, began to trouble you; is that correct?

17 **A.** That always stuck out in my head as a very jarring note,  
18 yes.

19 **Q.** And a week later in Sisters, Oregon, you were proud of  
20 what you had done?

21 **A.** Are you asking me a question?

22 **Q.** Yes, I am. I should say: Were you, a week later at  
23 Sisters, Oregon, at the book club meeting, one that was not  
24 attended by Briana Waters -- in fact, none of them were  
25 attended by Briana Waters, zero, none, right?

1   **A.** That's correct; she was at none of the book club meetings.

2   **Q.** You said a few minutes ago that you began to feel troubled  
3 when you heard the firefighters' interchanges on their  
4 scanner; is that correct?

5   **A.** Yes.

6   **Q.** Yet, am I correct that a week later, you were proud of  
7 what you had done at the -- burning down the Center for Urban  
8 Horticulture?

9   **A.** Yes. I am ashamed to admit that I was proud to have  
10 gotten away with a major federal crime.

11   **Q.** So your act here is shame. Ladies and gentlemen of the  
12 jury, I am ashamed of what I have done and I am here, and I am  
13 just going to tell you the truth. That's your story, right?

14           MR. FRIEDMAN: Objection, Your Honor, this is  
15 argumentative.

16           THE COURT: Question?

17 BY MR. BLOOM:

18   **Q.** When you get caught in something and you rely on, you  
19 know, I'm ashamed --

20           MR. FRIEDMAN: Objection, Your Honor, he's arguing.

21           THE COURT: Ask the question. You can answer it if  
22 you can.

23   **A.** I avoided re-evaluating what had happened until I was  
24 arrested -- or until Stan was arrested. When that happened, I  
25 still, for a long time, didn't know how I felt. I mean, I

1 didn't think it was good that we burned down the building, but  
2 I also did not want to cooperate, and I didn't know how to  
3 reconcile these old beliefs that I had moved on from with my  
4 feeling that what we had done was wrong and the loyalty I felt  
5 to the people who I believed were idealistic and  
6 well-intentioned.

7 Q. So basically, you became a truth teller; is that correct?

8 A. I told the truth, yes. I am telling the truth, yes.

9 Q. Well, yesterday you testified, for example, that when you  
10 had the job at the C-Ville Daily in Charlottesville, Virginia,  
11 the reason that you left is because there was a personality  
12 problem between you and the editor; is that correct?

13 A. I think the phrase is I was terminated without cause or  
14 something, yes.

15 Q. That was a woman named Ms. Harding; is that correct?

16 A. Kathy Harding, yes.

17 Q. In fact, didn't you get fired because you showed up drunk  
18 at a town meeting, to cover a town meeting?

19 A. She -- that's what she said. What the unemployment  
20 decision determined was that I was terminated without cause.

21 Q. Were you drunk at the town meeting?

22 A. No, I wasn't drunk at the town meeting.

23 Q. Were you a little intoxicated? Had you been at a Cinco de  
24 Mayo party?

25 A. No. Kathy Harding assigned me a story for the Spring

1 issues, sort of out and about in the springtime, and we were  
2 to write these short blurbs. One of the blurbs I was assigned  
3 to write was a review of the best margarita in town, and then  
4 she fired me for drinking a margarita. I think she didn't  
5 like me very much and kind of set me up, but I don't know.

6 Q. Poor you.

7 A. You are the one who raised the subject, sir. I learned a  
8 lot from that experience.

9 Q. And she said -- this woman said that you got fired because  
10 you showed up drunk to cover a public event. That's what she  
11 said, right?

12 A. She terminated me without cause. She may have said that  
13 to Unemployment. I think they contested my unemployment.  
14 Unemployment determined that I was terminated without cause.

15 Q. You testified yesterday under oath that it was about a  
16 personality conflict. That's the truth, right? You think it  
17 was just about a personality conflict?

18 A. Yeah, I do.

19 Q. Now, in the time between December 7th, the arrest of your  
20 boyfriend, December 7th of '05 -- when did you become engaged,  
21 by the way?

22 A. Late 2006.

23 Q. And that was after he was cooperating and after you were  
24 cooperating; is that correct?

25 A. That's correct.

1 Q. And he was cooperating within two hours of being arrested;  
2 is that correct?

3 A. I don't know, sir. I have never spoken with him about  
4 that. I have never read anything about his cooperation.

5 Q. You do know --

6 A. Let me clarify. I have never read anything that's not in  
7 the public records, the court documents, about his  
8 cooperation.

9 Q. Can you say that again. It's hard to hear you sometimes.

10 A. I have never read anything that's not in the unsealed  
11 pleadings.

12 Q. How did you get to read the unsealed pleadings?

13 A. How did I get to read them?

14 Q. Yes. Who gave them to you?

15 A. I have access to them myself.

16 Q. How is that?

17 A. There's an electronic service to access pleadings.

18 Q. It's called PACER?

19 A. Yes.

20 Q. And you have -- whenever you want to, by computer you can  
21 access that via the Internet?

22 A. No, I am in prison.

23 Q. So whenever you get use?

24 A. No. We are not allowed to access the Internet; we only  
25 have e-mail.

1 Q. I see. So the access via PACER was before you  
2 self-surrendered a little over a year ago?

3 A. Yes. I believe I have read all the pleadings in this  
4 case, almost, except for anything filed in the last few days.

5 Q. So from the time you self-surrendered in January a year  
6 ago, you have not or you have seen the pleadings that have  
7 been filed since then?

8 A. I have seen those.

9 Q. How did you get those?

10 A. My attorney sent them to me.

11 Q. In hard copy, on paper?

12 A. Yes.

13 Q. And you requested those?

14 A. Yes.

15 Q. Because you wanted to know what was happening?

16 A. I have tried to stay up-to-date on every single one of the  
17 cases of all of the people who were indicted.

18 Q. In particular this case because you expected that you were  
19 going to be testifying; is that correct?

20 A. No, I hoped and prayed that I would not have to testify.

21 Q. Nevertheless, hoped and prayed, you thought that you might  
22 be testifying; is that correct?

23 A. No, it didn't seem like a reasonable position to take so I  
24 kind of thought I would not have to testify.

25 Q. I am sorry --

1 A. I thought I would not have to testify. I think it's rare  
2 for cases to go to trial.

3 Q. In fact, tell us who Brian Baker is.

4 A. Brian Baker is a man I know through working in sustainable  
5 agriculture in Oregon.

6 Q. Have you been in touch with him?

7 A. I am in touch with Mr. Baker.

8 Q. Did you ask him to write a letter to Judge Burgess on your  
9 behalf?

10 A. I believe he did, yes. Yes, I asked him.

11 Q. Did you do that by e-mail, get in touch with Brian Baker?

12 A. I have seen Brian Baker face to face. I could have asked  
13 him then or by e-mail.

14 Q. Do you remember telling him, with regard to what you  
15 answered a moment ago, about why you thought this case, Briana  
16 Waters' case wouldn't go to trial, did you write to Brian  
17 Baker and tell him that the feds overcharge?

18 A. I believe that's true, yes.

19 Q. Did you tell him that they force plea deals?

20 A. I don't know the feds. I would say there's three  
21 combinations that lead to people having very long sentences in  
22 federal prison. Those would be mandatory minimum, severe drug  
23 penalties and, I guess, the charging ability of the U.S.  
24 Attorney's Office.

25 Q. My question is: Did you write to Brian Baker and tell him



1 that it was your opinion that the feds force plea deals?

2 **A.** It sounds like you are reading from something to me. I  
3 don't have access to that that you are reading from.

4 **Q.** I am just asking, whether I am reading or not, did you say  
5 that? Did you write that to Brian Baker?

6 **A.** I may have written that to Brian Baker. I'm sorry, unless  
7 I can see what you are reading from, I can't verify that it's  
8 my words.

9 **Q.** Well, I am not asking you to say word for word. I am  
10 asking you if you remember writing that to him. That's all I  
11 am asking, whether I am reading or not.

12 **A.** I don't have a particular memory of writing that to him.  
13 I am sorry, I am not trying to be difficult.

14 **Q.** Do you remember writing to him that, in your opinion, that  
15 with regard to the feds taking a case to trial is not a right,  
16 but a very risky proposition?

17 **A.** I believe that's true, yes.

18 **Q.** And you believe that you wrote that?

19 **A.** I think it is very risky to take a case to trial, yes. I  
20 believe I probably wrote that to Brian.

21 **Q.** So when it came to your thought that you not just hope,  
22 but your thought that you would not have to testify in this  
23 case against Briana Waters, it was your hope that she would  
24 plead guilty and the case would be over for you, you wouldn't  
25 have to testify; is that correct?

1   **A.** Yes, si r.

2   **Q.** Do you know that everybody else who's not a fugitive in  
3 these cases, this case and the Eugene, Oregon case, including  
4 you, everybody has pleaded guilty except for Briana Waters?

5   **A.** That's right.

6   **Q.** Is that, in your mind, because they, the feds, force plea  
7 deals?

8   **A.** I think they pled guilty because they were guilty and --  
9 you can take it to trial, you have a right to take it to trial  
10 technically, but there is a penalty built into the system if  
11 you take it to trial.

12   **Q.** And the penalty is a gigantic sentence, right?

13   **A.** Well, the clearest penalty to me is that you don't get a  
14 downward departure for acceptance of responsibility.

15   **Q.** You were told -- I think Mr. Friedman asked you  
16 yesterday -- when you first spoke to the law enforcement  
17 people on the 21st of February of 2006, you understood that  
18 you were facing a mandatory minimum sentence of 35 years if  
19 you went to trial and lost.

20       You understood that; is that correct?

21   **A.** Yeah, I think I knew that at that point.

22   **Q.** I am sorry?

23   **A.** Yes, I knew that at that point.

24   **Q.** And was that what you had in mind when you said to Brian  
25 Baker that they force plea deals?

1   **A.** No, I was making a general analysis of the prosecution,  
2   the way the justice system works in this country.

3   **Q.** Is that what you had in mind when you said that taking --  
4   if you said something like, taking a case to trial is not a  
5   right, but a very risky proposition --

6   **A.** Yeah.

7   **Q.** -- words to that effect?

8   **A.** Technically, you have the right, of course, to take a case  
9   to trial, so I was wrong if I said that it's not a right. It  
10  is a right. But it is a very risky proposition because you do  
11  not get credit for accepting responsibility.

12  **Q.** But in your mind, and what you were thinking, is that even  
13  though it's a right, the federal authorities with whom you  
14  were dealing don't think of it as a right, they think of it as  
15  a luxury, that nobody goes to trial, guilty or not?

16  **A.** I can't speak to how they think.

17  **Q.** No, what you think about how they operate. That's what I  
18  am talking about. Your belief about how they operate.

19  **A.** If you wanted me to characterize my belief, I do it pretty  
20  carefully and in my own words.

21  **Q.** Of course you do it carefully because it's these people  
22  right here who are going to say to Judge Burgess, give her  
23  three years or give her five years or the deal is off?

24  **A.** I do it carefully because my perspective has changed since  
25  I have been in prison.

1 Q. You are remorseful now, right?

2 A. Yes, I feel a lot of remorse.

3 Q. And you were -- were you remorseful between December 7, of  
4 '05 when everybody was arrested and the 21st of February,  
5 two-and-a-half months later? Were you remorseful at that  
6 time?

7 A. I was panicked and remorseful and scared senseless, yes.

8 Q. It took you two-and-a-half months to come in and express  
9 your remorse, correct?

10 A. Confessing to a crime that could put you in prison for 35  
11 years is very scary.

12 Q. Yes, it is, but it took you two-and-a-half months to come  
13 in and tell Mr. Friedman, Mr. Bartlett and Agent Halla and  
14 everyone else, that you are remorseful. It took you  
15 two-and-a-half months after the arrest of your boyfriend?

16 A. Yes, it did. And one thing that was a big factor in my  
17 mind is that I did not want to bear the responsibility of  
18 sending anyone else to prison.

19 Q. Now, in that period or after that period, did you travel  
20 to Arizona?

21 A. I did travel to Arizona during 2006, yes.

22 Q. When was it?

23 A. I am not sure of the months.

24 Q. Was it before you began to cooperate or after?

25 A. After, and I think in like May, June and then maybe

1 November, October, November.

2 Q. When you were in Arizona, did you look up a long-time  
3 activist named Millett?

4 A. Peg Millett, yes.

5 Q. Did you tell her you were cooperating?

6 A. I didn't have a specific conversation with her about what  
7 I was doing, no.

8 Q. You concealed the fact from her that you were a  
9 cooperating individual; is that correct?

10 A. Generally, I had been asked not to tell people that I was  
11 cooperating. I did not -- I didn't tell her that I was  
12 cooperating, that's true.

13 Q. You had been asked by whom to do that?

14 A. After I cooperated, I felt like -- I felt like -- the day  
15 I was going to cooperate, I felt like I was on the way to my  
16 funeral. Afterwards, I felt like I had been to confession and  
17 was given new life, and I wanted to sing it from the mountain  
18 tops. I wanted to tell everyone in the world what I had done  
19 and why I had done it.

20 My attorney told me that I should not do that. I believe  
21 that the U.S. Attorney's Office did not want me to tell people  
22 I was cooperating, but I don't know for sure. They didn't  
23 tell me that, I don't think.

24 Q. Now, whatever you were told and whatever you wanted to do,  
25 how much time did you spend with Peg Millett in Arizona?

- 1   **A.**   A number of hours.
- 2   **Q.**   During that time, you had already been, at least once, to  
3   the prosecution and made statements; is that correct?
- 4   **A.**   Yeah.
- 5   **Q.**   You were already a cooperating witness; is that correct?
- 6   **A.**   I guess so.
- 7   **Q.**   Did you have a bite to eat with Peg Millett?
- 8   **A.**   I remember her making some juice and maybe there was some  
9   food.
- 10  **Q.**   You went to her home?
- 11  **A.**   I went to her home.
- 12  **Q.**   As you sat across from her or stood across from her, you  
13  did not want her to know that you were a Government witness;  
14  is that correct?
- 15  **A.**   No, I think I kind of hinted to her that I was.
- 16  **Q.**   In what way did you do that?
- 17  **A.**   I talked with her about the woman in her case who had  
18  folded, and I talked with her generally about why a person  
19  would do that, what a person would do.
- 20  **Q.**   So that was your hinting at it; is that correct?
- 21  **A.**   I don't remember exactly how I hinted or -- I think she  
22  knew.
- 23  **Q.**   Basically, you sat with her for two or three hours and you  
24  deceived her; is that correct?
- 25  **A.**   I think she knew that I was cooperating.

1 Q. What makes you think that she knew that you were  
2 cooperating?

3 A. It seemed like something I had conveyed and that she had  
4 understood.

5 Q. Did you tell her you were cooperating?

6 A. No, not explicitly.

7 Q. You kept that from her. You expressly decided, I am not  
8 going to tell this woman that I am cooperating?

9 A. I did not tell that woman I was cooperating.

10 Q. You made a decision, you said to yourself before you saw  
11 her and while you were with her, I am not going to tell this  
12 woman that I am a cooperating witness.

13 You made that decision; is that correct?

14 A. No, I don't think I decided that. I think after I felt  
15 like I hinted at it and she had understood, then it seemed  
16 unnecessary.

17 Q. Did you also look up a fellow named Ron Coronado?

18 A. No.

19 Q. Did you bump into him?

20 A. Yes.

21 Q. And how much time did you spend with him in Arizona in  
22 2006, on this trip that you made to Arizona?

23 A. Maybe three minutes.

24 Q. And he walked away from you, right?

25 A. Yeah.

1 Q. And were you at the same time looking for Spring and  
2 Peaches, who had last been in Arizona?

3 A. No, I was not looking for them.

4 Q. Were you doing any kind of investigative work for the  
5 United States Government as a cooperating witness?

6 A. No.

7 Q. In fact, on your website, either your writing or your  
8 associates' or your friends' writing, it's indicated that  
9 there's a lot of misunderstandings about what you are doing;  
10 is that correct?

11 A. I haven't read the website recently.

12 Q. Well, when it first went up, were there writings to that  
13 effect? There's a lot of misunderstandings?

14 A. I think that's true.

15 Q. In fact, it's not a misunderstanding that you are a  
16 Government witness, right?

17 A. When my plea changed, people spread the fact that my plea  
18 changed and it was said that I wore a wire. That was a great  
19 misunderstanding. I never wore a wire.

20 Q. But you were and are a Government witness, and you've been  
21 such since February 21 of 2006; is that correct?

22 A. That's correct.

23 Q. Was that a misunderstanding that people were saying that?

24 A. No. People said that before that as well, when it wasn't  
25 true.



1 Q. But you made it true. You went in and you saved yourself;  
2 isn't that right? You saved yourself from essentially the  
3 rest of your life in prison, only 35 years, not a life  
4 sentence, only 35 years, the mandatory minimum. No parole  
5 before 35 years. You understood that, right?

6 A. Yes.

7 Q. And at the time, in February of '06, how old were you?

8 A. In February '06, I was 31.

9 Q. So you would have been 66 years old if you hadn't cut a  
10 deal, by the time you got out of prison if you got convicted,  
11 right?

12 A. Yes.

13 Q. And you knew you were going to get convicted because your  
14 boyfriend had informed on you?

15 A. No, I didn't think -- no, I didn't know that. I didn't  
16 think Stan's word alone would be sufficient, if he had.

17 Q. So you were considering going to trial; is that right?

18 A. I wanted to take a straight plea deal.

19 Q. I am sorry?

20 A. I wanted to take a non-cooperating plea deal originally.

21 Q. And that didn't work out, they said no, right?

22 A. No, it was never -- let's see. It didn't work out. I was  
23 never offered a non-cooperation deal, but they didn't say no  
24 to it.

25 Q. Well, what you really wanted was for it to just go away,

1 right? That would have been the best solution, right?

2 A. Yeah, I wish I could have woken up and it had gone away.

3 Q. But you knew that wasn't going to happen, right?

4 A. No, because I was guilty.

5 Q. Well, it's not just that you were guilty, it's that your  
6 boyfriend was saying that you were involved in the double  
7 whammy?

8 A. I didn't know that. I thought that might be true.

9 Q. Sometime this morning, we talked about you did have a  
10 recollection of going to visit Stan Meyerhoff in lockup and he  
11 said he was giving names and you pointed to yourself and he  
12 nodded yes.

13 Do you remember that?

14 A. I don't think he said -- he said something, and I  
15 said (indicating) and he said yes, but it was --

16 Q. Pointing to yourself?

17 A. Yes.

18 Q. The record should indicate that because -- I have to use  
19 the words because -- I have to describe it for the record.

20 You pointed to your own chest with your index figure, is  
21 that correct, which is the gesture that you made essentially  
22 questioning him, did you name names?

23 That is what you were asking; is that correct?

24 A. I was trying to ask that. I was unsure what the  
25 significance to him was.

1 Q. Did you get a response from him when you pointed to your  
2 chest? What was his response, if any?

3 A. I think he was responsive in the affirmative.

4 Q. He said, yeah, I named you. I told them about you.

5 A. No, he didn't say that.

6 Q. That's what he said in effect, right?

7 A. No. He was in prison. I was unsure what he remembered  
8 about me, and our interaction was videotaped, recorded, and  
9 there was probably an officer watching as well. So it was  
10 unclear.

11 Q. Right. You were trying to be secretive; is that correct?  
12 You didn't say, did you name me, and he said yes, I named you,  
13 you thug. He didn't say that, right?

14 A. Right, he didn't say that.

15 Q. In fact, you know he wrote a letter to a judge the day or  
16 the night he was arrested calling you and everybody else who  
17 was involved in these arson "thugs"?

18 A. No, I didn't know that he'd written such a letter.

19 Q. That's what happens when you decide to cooperate, isn't  
20 it? You say what you think they want to hear, and you put  
21 your fate in their hands?

22 A. That's what I thought might happen from watching TV, and  
23 the process has actually been nothing like that.

24 Q. In fact, didn't you and your boyfriend/fiancee, didn't  
25 there come a time when he told you in a phone conversation

1 that things didn't go well -- sometime in January of '06 --  
2 didn't go well, and he's going to go back to the plan of  
3 making the prosecutor his advocate?

4 Remember that conversation?

5 **A.** I remember him telling me at one point things didn't go  
6 well.

7 **Q.** Do you remember his saying he was going to go back to his  
8 original plan to make the prosecutor his advocate?

9 **A.** I don't remember that, and if he had said that, I wouldn't  
10 have known what it meant.

11 **Q.** Now you know what it means, don't you, because that's what  
12 you are doing?

13 **A.** The prosecutor prosecutes me; they are not my advocates.

14 **Q.** Well, they are going to speak up on sentencing day and  
15 they are going to tell Judge Burgess one thing or another; is  
16 that correct?

17 **A.** They are going to prosecute me on the day I am sentenced,  
18 yes.

19 **Q.** They are going to -- you hope they are going to say to  
20 you -- I am sorry, to Judge Burgess about you, she's done what  
21 we wanted her to do, she should get the lower end of the three  
22 to five range.

23 That's what you hope that they would say; is that correct?

24 **A.** I would like a recommendation for a low sentence, but my  
25 main hope is that Judge Burgess gives me a low sentence. I am

1 not really overly concerned about the recommendation. They  
2 have two years over me, but they don't have 35 years over me.

3 Q. Whatever it is they have, you would prefer that they come  
4 in before Judge Burgess and advocate for you, rather than  
5 against you?

6 A. They will not ever advocate for me. They are the  
7 prosecutors. My lawyer advocates for me.

8 Q. And he will come and argue for you on sentencing day; is  
9 that correct?

10 A. I fully expect that the U.S. Government will use every  
11 speck of dirt they have on me on the day that I am sentenced.  
12 That's what they do, they are prosecutors.

13 Q. And that's why you have agreed to be in league with them?

14 A. Because they will use every speck of dirt on me? No.

15 Q. No. These are people you have just described with some  
16 disdain who they are and what you expect them to do.

17 A. I am sorry if that was disdainful. I didn't mean to be  
18 disdainful. I don't feel disdainful for their job title. I  
19 think it's important.

20 Q. I think you said that's who they are, or something like  
21 that, right?

22 A. Yeah, maybe.

23 Q. Are you saying to this jury that you don't care whether  
24 they come in and say give her three years or, on the other  
25 hand, they say give her five years?

1 **A.** I care greatly about doing the minimum amount of time in  
2 prison as possible, but I will tell you that if there was any  
3 risk, it was that I would have convenient memory lapses and  
4 not remember Briana there. There have been days when I  
5 thought I would kill myself before I would testify against  
6 her.

7 I am not telling the truth because I owe it to the  
8 prosecution. I am telling the truth because I owe it to the  
9 victims of the crime.

10 **Q.** When you say the truth, to you the truth is: "I said  
11 Briana Waters did it, for whatever my reasons, and I have to  
12 keep saying that. That is my position. If I don't say that,  
13 the deal is over, 35 years in prison. You understand that.  
14 They can come in here -- let me withdraw that. That's a  
15 complex question.

16 You understand that if you don't please them, they have  
17 the option of coming in here and saying: Judge Burgess, she  
18 has not fulfilled her obligation, and we believe the deal  
19 should be abrogated, called off?

20 **A.** If I told a lie, they could do that.

21 **Q.** To them, a lie would be anything other than Briana Waters  
22 did it, in your mind?

23 **A.** Because Briana Waters did it.

24 **Q.** That's what you are saying, and that's what you are going  
25 to say from here to the end of time, because it helps you to

1 say that?

2 **A.** Yes, to the end of time until after the prosecutors have  
3 nothing on me, forever. My recollection is Briana Waters did  
4 it.

5 **Q.** Can you explain why four weeks after you said Briana  
6 Waters did it, they showed her picture to your boyfriend,  
7 Meyerhoff, who looked at the picture and said: She, the woman  
8 in this picture, is not involved in any arsons?

9 Can you explain how possibly that could happen?

10 **A.** I could speculate.

11 **Q.** Let's hear it. Let's hear you speculate.

12 **A.** Just like I didn't recognize the picture of Justin. I  
13 don't know what picture was shown to him. He was involved in  
14 a number of arsons. I am sure it's difficult for him to  
15 remember. So I don't know. I can't explain it, but that's my  
16 speculation.

17 **Q.** Let me show you A-97. Who is that?

18 **A.** That's Briana Waters.

19 **Q.** Any mistake that that's Briana Waters?

20 **A.** Not to me.

21 **Q.** That picture looks more like her than she looks like her.  
22 That's Briana Waters, right?

23 **A.** That's Briana Waters.

24 **Q.** If you looked at that picture, would you say not involved?  
25 You wouldn't say that at all. You would say involved in the

1 CUH arson; is that correct?

2 **A.** I was only involved in one arson, so my memory is very  
3 clear.

4 **Q.** Well, he was asked -- or did you come to learn that he was  
5 asked: Was she involved? Do you recognize this picture? And  
6 he said, looks familiar, not involved?

7 MR. FRIEDMAN: Objection, calls for speculation and  
8 it's been asked and answered.

9 THE COURT: I thought she had answered that,  
10 Mr. Bloom.

11 MR. BLOOM: All right. I will move on.

12 THE COURT: All right.

13 BY MR. BLOOM:

14 **A.** Another bit of speculation is that those photo lineups go  
15 really quickly.

16 **Q.** Well, did you come to learn that he did pick out a number  
17 of people in that photo lineup --

18 **A.** No.

19 **Q.** -- on March 17th of 2006?

20 **A.** No, only just now when you said that. I don't know what  
21 the conversation was about, what arson it was about, if he was  
22 talking about University of Washington at that point or not.  
23 I don't know anything about that conversation, other than your  
24 characterization of it.

25 **Q.** You weren't present; is that correct?



1   **A.**   Of course not.

2   **Q.**   Did you have a discussion, either by telephone or by  
3   e-mail or in person, with Mr. Meyerhoff any time after St.  
4   Patrick's day of '06, March 17th?

5   **A.**   Did I converse with him after March 17th of '06? Yes.

6   **Q.**   Did he indicate to you -- first of all, did you ever tell  
7   him that you were going to be naming or you had already named  
8   Briana Waters as a participant in the University of Washington  
9   arson?

10       Did you ever tell him that?

11   **A.**   Sometime very long after I did do that, I did tell him  
12   that. I believe it was after she was indicted and after I  
13   was -- my plea change happened.

14   **Q.**   Your plea change happened, meaning you were pleading  
15   guilty?

16   **A.**   Right.

17   **Q.**   And when you were pleading guilty, it was in front of  
18   Judge Burgess; is that correct?

19   **A.**   Yes.

20   **Q.**   In this very room; is that correct?

21   **A.**   Yeah.

22   **Q.**   Let's talk about the first day you spoke to Mr. Friedman  
23   and Agent Halla. Your father was with you?

24   **A.**   He accompanied me to the federal building, yes.

25   **Q.**   And that would be in Seattle?

- 1   **A.**   Yes.
- 2   **Q.**   What time of day was that?
- 3   **A.**   I don't remember. I think it was 10:00, 11:00 or
- 4   something.
- 5   **Q.**   Late morning?
- 6   **A.**   Yeah.
- 7   **Q.**   He was not in the room with you when you were talking
- 8   about the events; is that correct?
- 9   **A.**   No.
- 10  **Q.**   He was asked to wait outside?
- 11  **A.**   Yes.
- 12  **Q.**   And in the room with you, did you have a lawyer?
- 13  **A.**   Peter Offenbecher.
- 14  **Q.**   And when did you retain Peter Offenbecher?
- 15  **A.**   I am not sure what day I signed a contract or whatever you
- 16  would call it with him.
- 17  **Q.**   Retainer agreement?
- 18  **A.**   Retainer agreement, uh-huh.
- 19  **Q.**   Would that have been in the month of December of '05?
- 20  **A.**   In December of 2005, I consulted with a number of
- 21  attorneys, including Peter Offenbecher.
- 22  **Q.**   And there came a time when you decided he was going to be
- 23  your lawyer?
- 24  **A.**   Yes.
- 25  **Q.**   And did you pay him or did your parents pay him?

1   **A.**   I -- the money was mine.

2   **Q.**   You had gotten money from your parents?

3   **A.**   No, I got the money from hard work.

4   **Q.**   Okay.  There came a time when you and Peter Offenbecher --  
5   February 21 -- went to speak to the authorities; is that  
6   correct?

7   **A.**   Yes.

8   **Q.**   And you had already decided that you were going to save  
9   yourself; is that correct?

10  **A.**   No, I had no idea what I was going to do when I walked  
11  through the door.

12  **Q.**   You didn't know?

13  **A.**   I didn't know.

14  **Q.**   Had you discussed it with Mr. Offenbecher?

15  **A.**   I had discussed it -- yeah.

16  **Q.**   It was not your understanding that you were going there to  
17  become a cooperating witness?

18  **A.**   I knew I was going there to meet with the U.S. Attorney's  
19  Office.  I thought that they would hope that I would  
20  cooperate.  I thought they would tell me something about it  
21  beforehand, but they didn't.  This meeting went differently  
22  than I expected.  I was -- immediately prior to going to the  
23  U.S. Attorney's Office, I was told by Lauren Regan that  
24  Chelsea Gerlach and Suzanne Savoie were cooperating, and in my  
25  mind, the truth was coming out, it was time to be truthful.

1 Q. You looked over here when you said Lauren Regan. Is she  
2 in the courtroom?

3 A. Yes, she is.

4 Q. Is she an attorney?

5 A. Yes, she is.

6 Q. Is she from Eugene, Oregon?

7 A. Yes, she is.

8 Q. How long had you known her before February 21st of '06?

9 A. The year that I met her, let's see, maybe 19 -- no, 1996  
10 or '97 I met her for the first time.

11 Q. Was she the attorney with whom you worked in Eugene, or  
12 was it someone else?

13 A. I worked for a law firm while I was in college, Arnold,  
14 Gallagher, Saydack, Percell and Roberts, and I worked at a  
15 different firm after I came back from Europe, with an attorney  
16 named Jeff Rosas.

17 Q. Did you -- after December 7th, did you call Lauren Regan?

18 A. I tried to, but she was in Costa Rica.

19 Q. She had gone to the wedding; is that correct?

20 A. Yes.

21 Q. Is it fair to say that she got back right after Christmas?

22 A. I think so.

23 Q. And you spoke to her more than once right after Christmas?

24 A. Probably, yes, I spoke with her.

25 Q. Did there come a time -- let me withdraw that.

1 Did you come to learn that she's an attorney for  
2 environmental activists; is that correct?

3 A. And environmental causes, yes.

4 Q. Did you come to learn that she was in some way involved in  
5 the Oregon case where Stan Meyerhoff was one of the people  
6 indicted?

7 A. I was never clear on what her involvement was.

8 Q. Did you come to learn that she was in some way involved?

9 A. She seemed to have information related to the case, yes.

10 Q. And it was important to you to get information related to  
11 the case; is that correct?

12 A. Yes.

13 Q. In fact, you and Lauren had been roommates for a while; is  
14 that correct?

15 A. Yes.

16 Q. When was that?

17 A. I am not sure of the dates, but I lived with her at the  
18 time I committed the arson.

19 Q. Did you tell her at that time that you had committed an  
20 arson?

21 A. No, I never told anyone.

22 Q. I am sorry?

23 A. I never told anyone.

24 Q. Right. It's understandable that you don't want to admit  
25 to a crime, unless you are put in a position where some reason

1 you feel you have to?

2 THE COURT: Let's do this. Let's break at this point  
3 and take the noon recess, have you go about your way and get a  
4 sandwich. When you are back in the building, of course always  
5 enter into the jury room. Leave your books on the chair and  
6 don't discuss the case.

7 (Jury not present.)

8 THE COURT: All right. You may be seated.  
9 We'll take the noon recess.

10 MR. FRIEDMAN: Before we adjourn, we are concerned  
11 that a lot of the questions are getting very close to  
12 attorney/client privilege, conversations that Ms. Philabaum  
13 had with various lawyers so --

14 THE COURT: I think if she feels it's in that  
15 category, she will disclose that and handle that.

16 THE WITNESS: Does that mean I can say if I think  
17 it's a privileged conversation?

18 THE COURT: I can't advise you, but you may step  
19 down. I believe you have a lawyer, don't you?

20 THE WITNESS: Uh-huh.

21 THE COURT: Okay. That will take care of that.

22 MR. BARTLETT: Can we get a feel -- we totally  
23 misunderstood how long this is going to go on. We have a lot  
24 of witnesses sitting outside.

25 MR. BLOOM: I think I intend to take the day.

1 THE COURT: I can't tell how long he's going to go  
2 on. Sometimes I am here to listen, and hopefully it won't be  
3 a broken record like it tends to seem sometime.

4 MR. FOX: If I in any way -- I apologize if I in any  
5 way suggested it would be less.

6 MR. BARTLETT: No problem. Let's take the noon  
7 recess.

8 THE CLERK: All rise. Court is in recess.

9 (Luncheon recess.)

10 (Jury not present.)

11 THE COURT: All right. You may be seated.

12 Mr. Bloom, we are ready. Bring in the jury.

13 (Jury present.)

14 THE COURT: You may be seated.

15 You may continue, Mr. Bloom.

16 MR. BLOOM: Thank you.

17 BY MR. BLOOM:

18 Q. I think we were talking about the Sisters meeting. Now,  
19 the four other meetings, the book club meetings that had  
20 preceded that, I think you've already testified that Briana  
21 was at none of those meetings; is that correct?

22 A. That's correct.

23 Q. Now, did you have a nickname in this group of people?

24 A. I think I might have had one or two nicknames during that  
25 period of time.

1 Q. Well, might have?

2 A. The only nickname or alias I ever remember is Reba.

3 Q. You say the only one. That is your nickname, that was  
4 your alias; is that right?

5 A. For a period of time, I believe that I had, like maybe at  
6 different meetings, we had different names. I'm not sure.

7 Q. Was there such a thing -- there was one meeting where you  
8 all chose what might be called an ailment name; is that  
9 correct?

10 A. No. There was one meeting at which Jen Kolar handed out  
11 PGP disks that she had assigned ailment names, and I had been  
12 assigned an ailment name.

13 Q. What was that?

14 A. I don't know.

15 Q. It was kind of a semi joke, right, that "bronchitis" would  
16 be somebody's name or something like that?

17 A. I never got the joke, if it was a joke.

18 Q. Well, then it was a serious effort using some medical  
19 ailment to conceal people's names; is that correct?

20 A. It was an effort to conceal people's names, yes.

21 Q. Because people were really security conscious; is that  
22 right?

23 A. PGP was at the point which we were very security  
24 conscious, yes.

25 Q. When was this meeting, the meeting at which PGP was



1 discussed?

2 **A.** That was the third meeting in Santa Cruz, I think,  
3 California.

4 **Q.** Santa Cruz, California?

5 **A.** Yes.

6 **Q.** What month and what year?

7 **A.** I believe it would have been the year 2000. I am unsure  
8 of the month.

9 **Q.** Who was present?

10 **A.** Myself, Stan Meyerhoff, Jen Kolar, Chelsea Gerlach, Diane  
11 Robin, Jeff Hogg, Nathan and Joy. I believe a man from Santa  
12 Cruz who we called Leroy was there. Rod Coronado was there.  
13 Avalon was there.

14 **Q.** Those are the ones you remember right now?

15 **A.** Those are the ones I can rattle off without being sure  
16 which ones I have said already.

17 **Q.** Now, was there any discussion with regard to security,  
18 that one thing that should never happen in a secure situation  
19 is one person should buy a cell phone for another person in  
20 the group? Was that kind of thing discussed?

21 **A.** I don't know that particular rule.

22 **Q.** That really would have been, in your mind, based on the  
23 instructions that you were hearing, a ridiculous breach of  
24 security for that to happen; is that correct?

25 **A.** It would depend on the circumstances.

1 Q. Well, if I were to buy a cell phone for you, put the cell  
2 phone in my name and give it to you to use in my name, that  
3 would be a security breach, wouldn't it?

4 A. If I intended to recruit you to commit arsons at that  
5 point of time, if I originally intended to use you as a  
6 support person to support my arsonist activities, it might not  
7 be a security breach, it might be something I did with the  
8 intention of having you support me.

9 Q. What about if I was your friend and you were having credit  
10 problems and you asked me to buy a phone for you that you  
11 couldn't get one in your name, would that be another option?

12 A. I wouldn't buy a phone for someone. I am not sure why we  
13 are talking about this.

14 Q. Because maybe you are not such a good friend, you wouldn't  
15 buy a phone for someone?

16 A. (Laughing.) No, I generally try to neither lender nor a  
17 borrower be.

18 Q. Nor a favor doer?

19 A. That's a little piece of advice that Stan gave me. It  
20 works well in prison, as well, where you don't want to be  
21 lending and borrowing a lot.

22 Q. Stan is a good person from whom to seek advice; is that  
23 right?

24 A. I am engaged to him. I find him to be a very good person,  
25 right, yes.

1 Q. Am I correct that you testified this morning that after  
2 September 11th, in your mind, all this arson stuff, this crazy  
3 stuff, was completely out, completely ridiculous; is that  
4 correct?

5 A. After September 11th -- well, after the crime, I didn't  
6 want anything to do with arson. During that whole period of  
7 time, I was re-thinking my involvement with radical  
8 environment groups, and September 11th made on me, like  
9 everyone, a very big impression, yes.

10 Q. And this man whom a moment ago you said is a person whose  
11 advice you would heed, Stan Meyerhoff, a month after September  
12 11th, October 15th of the year 2001, he committed another  
13 arson, did he not?

14 A. I have no direct knowledge of that, sir.

15 Q. Did he tell you he did?

16 A. No.

17 Q. Has he since then told you that he did?

18 A. No, we've never talked explicitly about his crimes. I  
19 have read it in court papers.

20 Q. You have come to learn now, or do you believe now, that  
21 he, Stan Meyerhoff, committed an arson in Susanville,  
22 California, a rural part of California?

23 Do you believe that now?

24 A. He's been convicted of that, yes. Yeah, I believe that he  
25 did that. He admitted it.

1 Q. You believe that that crime occurred approximately one  
2 month, five weeks after September 11, 2001?

3 Do you believe that?

4 A. I don't have any independent basis to verify any of this.  
5 If that's when it occurred, that's when it occurred, and I  
6 would believe it if I read it somewhere, yes.

7 Q. Well, did you read about it when it happened in the  
8 newspaper or in any Earth First journal or a Portland media or  
9 anywhere where you would get information about environmental  
10 activities?

11 A. I am not sure how I came to know about that, sir.

12 Q. Well, didn't you read that the Earth Liberation Front had  
13 taken credit for the arson at the Litchfield or Susanville  
14 facility?

15 A. Yeah, I believe I read about it somewhere at some point,  
16 yes.

17 Q. Did you ever discuss that -- is it your testimony you've  
18 never discussed that with your fiancée, Stan Meyerhoff? You  
19 have never discussed that with him?

20 A. Like I said, I made it be known to him that I thought  
21 after September 11th, it was incredibly stupid to involve  
22 ourselves in activities like that.

23 Q. Have you ever discussed that incident with him?

24 A. No. Sir, my -- my general relationship with Stan, I would  
25 compare to like recovery from, or deprogramming from a very

1 severe ideological event. Reliving the mistakes that we made  
2 was not big on our agenda. Moving on in our life was.

3 Q. I don't pretend to be an expert on recovery, but isn't  
4 part of recovery acknowledging, talking about and resolving  
5 and experiencing what you may or may not have done wrong?

6 A. Yes, and the opportunity to tell the truth about this has  
7 been very cathartic and penitential to me for that reason.

8 Q. This incident happened more than six years ago; is that  
9 correct?

10 A. Yes, sir.

11 Q. And you've been with him for how long?

12 A. Stan and I have been together for almost seven years.

13 Q. And in all this time, you have never spoken with him about  
14 that incident to which he has pleaded guilty?

15 A. No, sir. He was involved in a number of arsons, I  
16 believe, and we had only very few, very failed conversations  
17 about any of those because we were trying to move on in our  
18 lives. And since he was arrested again, because we are not  
19 free to talk about the case, the conversation has been  
20 minimal.

21 Q. He was arrested in December of '05; is that correct?

22 A. Yes, sir.

23 Q. And the incident happened four years plus before that; is  
24 that correct? We are talking about Litchfield, Susanville,  
25 more than four years before that, right?

1   **A.** I guess so, yes.

2   **Q.** October of '01, December '05. That's four years and two  
3 months, right?

4           MR. FRIEDMAN: Objection, Your Honor, these have all  
5 been asked and answered.

6           MR. BLOOM: It has not been asked and answered.

7           THE COURT: Well, ask it again. She keeps answering,  
8 but you are not satisfied, I guess.

9 BY MR. BLOOM:

10 **Q.** Is it your position that in four years and two months,  
11 that you never once discussed that incident with the man who  
12 is to become your fiancée?

13 **A.** I had one conversation with him where I told him that I  
14 thought after 9/11, it was unacceptable to be involved in such  
15 activities.

16 **Q.** Would that have been soon after 9/11 that you had that  
17 conversation?

18 **A.** Yes.

19 **Q.** And was it before October 15th of that same year?

20 **A.** No, I don't think so.

21 **Q.** So it was after that?

22 **A.** Well, I didn't think it was necessary to say really. I  
23 was surprised that this arson, which was potentially related  
24 to the people I knew, happened because I thought everyone  
25 would have the same misgivings that I did.

1 Q. When you were at Sisters at the fifth book club meeting  
2 one week after the University of Washington arson, you  
3 basically did high-fives for the wonderful work that you had  
4 done the week before; is that correct?

5 A. No. It was a tense meeting. We were angry with each  
6 other about the communiqué.

7 Q. So it was an intense meeting because of the communiqué?  
8 Did you not tell us this morning that you were feeling proud  
9 of yourself for what you had done?

10 A. That was the word of choice. That was your choice of  
11 words. I agreed to it, yes.

12 Q. Were you pleased with yourself? How about your word. You  
13 give the jury your word.

14 How did you did you feel about what you had accomplished  
15 by burning down the building?

16 A. I hadn't had time -- it took a long time to completely  
17 re-evaluate what I did and renounce it, and I do want to  
18 renounce it. I am renouncing it.

19 Q. I want you to use your word. In fact, that's what you do.  
20 You are a really good debater, aren't you?

21 A. Sir, I am trying to be thoughtful about the answers  
22 because it's an important matter.

23 Q. Your choice of what words and how to present them and what  
24 kinds of supporting facts to throw into your argument, that's  
25 among your highest skills, isn't it?

1   **A.** No, I haven't been a debater since I was 18 years old. I  
2 am 32, about to turn 33.

3   **Q.** It's like riding a bike, though, isn't it?

4   **A.** No, I wouldn't say so. I was a very competitive person  
5 when I was a debater. I was a very different person. I often  
6 find that I am not interested in argumentation anymore.

7   **Q.** Well, I am sorry to put you in this situation, but am I  
8 correct that two-and-a-half months went by after the arrest of  
9 Meyerhoff and the others before you decided to show your  
10 remorse by speaking to the U.S. Attorney on February 21st of  
11 06?

12   **A.** Yes, sir.

13   **Q.** Two-and-a-half months went by?

14   **A.** Yes, sir.

15   **Q.** And it wasn't about remorse, it was about saving yourself,  
16 wasn't it?

17   **A.** My motivations for cooperating were very complex. One  
18 thing I didn't want to do is put my family through a trial  
19 based on a lie. That was an important consideration for me.

20   **Q.** That's because you were guilty?

21   **A.** I am guilty.

22   **Q.** You were then and you are now?

23   **A.** Yes, I am.

24   **Q.** And you became guilty on May 21st in the early morning  
25 hours of 2001; is that correct?



1   **A.**   Yes, si r.

2   **Q.**   Even before that, you were a conspi rator wi th a number of  
3   the people you have mentioned; is that correct?

4   **A.**   Yes, si r.

5   **Q.**   Before you met -- as you claim -- met Bri ana Waters at  
6   Denny' s a week before the fire, was she involved in any  
7   conspiracy that you know of?

8   **A.**   From di rect knowl edge, no.   The only way I knew her and  
9   the only reason I ever had a conversati on wi th her, incl uding  
10   the conversati on in which she was angry wi th me, was because  
11   she parti cipated in this arson.

12   **Q.**   The conversati on in which she was angry wi th you is  
13   because she had parti cipated in the arson?

14   **A.**   The only reason I knew her to have that conversati on was  
15   because she was -- that happened that weekend.   One of those  
16   two weekends before the arson.

17   **Q.**   You had met Justin way back, sometime in the middle of the  
18   previ ous year, 2000; is that correct?

19   **A.**   I knew him for a matter of hours on the night of the  
20   Dusty, Washi ngton crime, yes.

21   **Q.**   And there came a time when you wound up in hi s cabi n just  
22   the two of you, right?

23   **A.**   Is that unusual for a man and a woman to be in a resi dence  
24   together?   I don' t thi nk i t is.

25   **Q.**   I di dn' t say i t was unusual , I am just asking the

1 questions.

2 Was it unusual in your mind to be in his bed with him?

3 MR. FRIEDMAN: Your Honor --

4 THE COURT: Why are we covering this again?

5 MR. BLOOM: Because she just brought it up.

6 THE WITNESS: I just want to mention, though -- what  
7 do you call it when it's not --

8 BY MR. BLOOM:

9 Q. Platonic?

10 A. Platonic interactions between men and women in the Earth  
11 First Movement to the point of sleeping together were common  
12 because we often camped together, sleeping together in the  
13 same space, camped together, spent time together. We were  
14 working on things intensely. It might be less usual in  
15 different communities, but in that community it was -- I never  
16 had sex with the man. I never thought about having sex with  
17 the man.

18 Q. Do you remember a guy by the name of Bill Clinton, right?

19 A. I never gave him a blow-job either, if that's what you are  
20 asking.

21 Q. I did not ask that at all.

22 Do you remember him saying, "I did not have sex with that  
23 woman"?

24 MR. FRIEDMAN: Objection, Your Honor.

25 THE COURT: Mr. Bloom, move on to a question that

1 helps here.

2 BY MR. BLOOM:

3 Q. Now, Tilth, what is that again?

4 A. Oregon Tilth is a certifier of organic farms.

5 Q. When did you work there?

6 A. I worked there from February 2001 until February of 2005.

7 Q. So am I correct that you testified earlier that it was  
8 working at Tilth that was one of the things that basically got  
9 you straightened out with regard to this radicalism?

10 A. It was one of three main influences, I would say.

11 Q. Am I correct that the dates you just gave, you were  
12 working at Tilth at the time you burned down the building?

13 A. Yes, to my great shame, I was -- you know, dishonored my  
14 employer.

15 Q. You've come here and you've indicated and you've thrown it  
16 in from time to time how bad you feel about being here, right?

17 A. Yes, sir.

18 Q. In fact, you don't like Briana Waters because she told you  
19 who you are and she put it right in your face and you don't  
20 like her, you didn't like her and you don't like her today?

21 A. I bear no hostility to Briana. I feel a lot of sympathy  
22 that she's in this situation. I feel sympathy for Justin  
23 who's fled. The decision of how to deal with a crime like  
24 this is heart breaking and painful no matter how you choose to  
25 deal with it.

1 Q. Have you seen her movie, Watch?

2 A. No, I have never seen it.

3 Q. You know of it, right?

4 A. I remember her talking about it and referencing it that  
5 weekend.

6 Q. Do you remember -- you say that weekend. You keep talking  
7 about that's when you saw her.

8 Did you see her any other times?

9 A. Not that I remember.

10 Q. When did she have this conversation with you when she told  
11 you off?

12 A. One of those two weekends when we were working on the  
13 University of Washington arson. That's the only way that I  
14 know her.

15 Q. She had it wrong because you had not had sex with her  
16 boyfriend; is that correct?

17 A. I did not ever have sex with Justin Solondz.

18 Q. So she had it wrong, whenever it was?

19 A. If she believed that. It wasn't entirely clear to me that  
20 she believed that.

21 Q. She didn't say to you words to the effect that, you slept  
22 with my boyfriend and you are a so-and-so?

23 A. The conversation is not clear in my mind. I don't  
24 remember it very well at all. I didn't remember it at all  
25 until you mentioned it today.

1 Q. It came up before today, didn't it? Weren't you asked  
2 about it, whether or not you had an affair with Justin  
3 Solondz, by the prosecution?

4 A. An argument with Briana was never mentioned to me before.

5 Q. Was whether or not you had --

6 A. I have been asked that, yes.

7 Q. And you denied it then, as well as now; correct?

8 A. Yes, sir.

9 Q. I see you sighing about that, right?

10 A. Yes, sir. Again, I am just not sure why one way or the  
11 other it has anything to do with whether or not Briana  
12 committed an arson. It's kind of crazy to be raked over the  
13 coals about being an unprincipled slut for something that's  
14 unrelated.

15 Q. Well, it has to do -- and this is my last question on  
16 this -- you were asked early on yesterday by Mr. Friedman: Do  
17 you bear any ill will toward Briana Waters, and your answer  
18 is: I have sympathy for everyone involved in this case. You  
19 did not answer the question.

20 So I asked you the question: Do you have ill will. It's  
21 about ill will and how you feel about her, no matter what you  
22 say.

23 How do you feel about her?

24 A. I don't -- you've mentioned the term unprincipled slut,  
25 and I don't bear you ill will either. I don't bear ill will

1 to the prosecutors, to Briana, to the people who are my former  
2 friends and have turned their back on me; I do not bear them  
3 ill will.

4 Q. People turn their back on other people sometimes when they  
5 become informants, and especially so when they lie about what  
6 happened.

7 You know that, don't you?

8 A. No, not from firsthand experience.

9 Q. Now, did there come a time when you went to the Oregon  
10 State University girdling action?

11 Do you remember going to that?

12 A. Yes.

13 Q. Do you remember Mr. Meyerhoff was there?

14 A. He drove the car.

15 Q. He drove what car?

16 A. He drove a van.

17 Q. And was that Justin Solondz' van?

18 A. No.

19 Q. It was not?

20 A. If Justin had a van, I don't know about it.

21 Q. Was it Justin Solondz' vehicle?

22 A. I don't think so.

23 Q. Now, did you come to know that in the Susanville arson,  
24 one of the participants was Joe Di bee?

25 Did you come to know that?

1   **A.** I've read that in court papers.

2   **Q.** Did you come to learn that --

3   **A.** I think.

4   **Q.** Did you come to learn that one of the vehicles that was  
5 brought to that arson was Mr. Dibee's own, registered in his  
6 name, four wheel Toyota?

7       Did you come to learn that?

8               MR. FRIEDMAN: Objection, Your Honor. She has no  
9 knowledge of any of these things.

10              THE COURT: Well, she can answer yes or no, and then  
11 we will move on.

12   **A.** I haven't taken particular note of that detail from the  
13 pleadings.

14 BY MR. BLOOM:

15   **Q.** Did you come to know that your own boyfriend/fiancee drove  
16 his own silver Acura to that arson?

17   **A.** No, sir, I didn't know that.

18   **Q.** Have you come to learn that the Vail -- the Vail, Colorado  
19 arson, that Avalon took his own truck?

20       Did you come to learn that?

21              MR. FRIEDMAN: Your Honor, she has no personal  
22 knowledge of these facts.

23              THE COURT: I understand, and she can respond to  
24 that. I don't know what Mr. Bloom is after here. She can  
25 answer yes or no. If she didn't hear about it or know about

1 it --

2 BY MR. BLOOM:

3 Q. You have indicated, am I correct, that getting a car that  
4 was not in anybody's name, any of the participants' name was  
5 really important, sometimes the deal breaker, right?

6 A. And the examples you just gave would tend to illustrate  
7 how difficult that was to come by a car.

8 Q. I am sorry?

9 A. It's difficult to come by a truly anonymous car.

10 Q. So if you don't, then you use somebody's car, one of the  
11 participants' car? That's what happened time after time after  
12 time in these activities? They used their own cars; isn't  
13 that correct?

14 A. Sir, I was only involved in one arson.

15 Q. With regard to the accident that you say happened when the  
16 car was leaving, or the van or whatever the vehicle, was  
17 leaving the scene of the University of Washington arson, I  
18 think you testified that it felt like the impact was huge?

19 A. In my innervated state, yes, it felt huge.

20 Q. In what?

21 A. In my highly anxious, innervated state, it felt huge.

22 Q. Was it loud?

23 A. No, I don't remember a noise.

24 Q. What do you mean by huge?

25 A. Leaving the site, scene of the crime, any accident at all



1    felt like a big deal .

2    Q.    How fast would you estimate the car was going?

3    A.    We were going around a corner, so it was pretty slow.

4    Q.    How slow?

5    A.    Five miles an hour.

6    Q.    Five miles an hour.    That's how the vehicle was going,  
7    five miles an hour?    You were getting away from the scene, and  
8    your estimate is five miles an hour?

9    A.    We were driving on crowded residential streets late at  
10    night.

11    Q.    Did you have the lights on in your car, headlights?

12    A.    I assume so, yeah.

13    Q.    What part of the vehicle was hit?

14    A.    It was the rear driver's side or door panel , I am not sure  
15    which.

16    Q.    Did you ever get yourself to see the damage?

17    A.    No, I didn't get out of the car to look at it at that  
18    point, and I didn't see it later either.

19    Q.    When you say you didn't see it later, there did come a  
20    time obviously when you got out of the car, right?

21    A.    Yeah.

22    Q.    Where was the car when you got out of the car?

23    A.    I don't have a distinct memory of that.

24    Q.    Well, was it in a park?

25    A.    Sir, I don't have a distinct memory of that.

1 Q. Who was in the car at the time?

2 A. When I got out?

3 Q. Uh-huh.

4 A. I don't have a distinct memory of that. I can tell you  
5 who was in it when I got in.

6 Q. Who was in it when you got in?

7 A. The people in the car when I got into the car were Justin,  
8 Avalon, Briana, Jen and myself.

9 Q. Five people in the car?

10 A. Five people.

11 Q. How many in the front? How many in the back?

12 A. There were two seats in the front and three in the back.  
13 You mentioned a van a minute ago; it wasn't a van.

14 Q. Do you have any reason to know why Kolar would have said  
15 at her first interview that it might have been a van?

16 A. Perhaps she was involved in multiple arsons.

17 Q. You don't have any independent knowledge of why she might  
18 have said that; correct?

19 A. No, I have no independent knowledge of her.

20 Q. Now, did there come a time -- can you tell the jury what  
21 ELAW is?

22 A. It's that conference in Eugene, Oregon. It's sponsored by  
23 the University of Oregon Law School.

24 Q. Is it a public conference?

25 A. Yes, I think so.

1 Q. Have there been ELAW conferences that you have attended?

2 A. Yes.

3 Q. Did you attend the one in the year 2000?

4 A. Yes, I did.

5 Q. Was there a panel where you were one of the speakers?

6 A. There were multiple panels where I was a speaker one year.  
7 It might have been that year.

8 Q. Do you remember telling the people assembled at that panel  
9 that nonviolence is being used to limit your movement?

10 A. No.

11 Q. Do you remember telling the panel and the people who were  
12 listening that nonviolence is not the way change happens?

13 A. No.

14 Q. Do you remember talking about what you called the cult of  
15 nonviolence?

16 A. There's an article by a professor by that title that I  
17 referenced, yes.

18 Q. Did you believe at that time that there was such a thing  
19 as the cult of nonviolence?

20 A. I am sorry, what?

21 Q. Did you believe at that time that there was such a thing  
22 as a cult of nonviolence?

23 A. No.

24 Q. Did you tell the panel or one of those panels that  
25 property destruction must be an available tactic?

1   **A.** Yes, I probably advocated property destruction.

2   **Q.** Did you tell the people that you shouldn't let the fear of  
3 jail deter you?

4   **A.** I don't know if I said that.

5   **Q.** Do you remember saying that it was not important to reach  
6 out to middle class white people?

7   **A.** I don't believe I would have said that.

8   **Q.** You did come to know that -- well, one more thing.

9       Do you remember saying that we, the movement, must combine  
10 night sabotage and daytime actions?

11   **A.** I think that might have been the tenor of my remarks, yes.

12   **Q.** I am sorry?

13   **A.** I think what was the tenor of my remarks.

14   **Q.** What did you mean by nighttime sabotage?

15   **A.** Property destruction, road blockades, field trials, the  
16 type of actions we were doing there.

17   **Q.** Not arsons, right?

18   **A.** No, I never wanted to be involved in an arson before it  
19 happened. I distinctly did not want to be involved.

20   **Q.** You just got pulled into it, right, with no free will of  
21 your own?

22   **A.** I had free will. Do you want me to tell you why I think I  
23 went along with it?

24   **Q.** Was it because Meyerhoff wanted you to?

25   **A.** No.

1 Q. Do you know who a guy by the name of David Carr is?

2 A. Yes.

3 Q. Tell the jury who David Carr is.

4 A. David Carr is a journalist that I know.

5 Q. Would you describe him as one of your mentors?

6 A. He has mentored me.

7 Q. Is he a journalist for the New York Times?

8 A. He's a columnist for the New York Times.

9 Q. Is it fair to say that you met him at a conference, a  
10 convention at San Antonio, the Association of Alternative  
11 Newspapers?

12 A. Yes, that's where I met him.

13 Q. Do you remember seeing him perhaps twice in New York?

14 A. I saw him once in New York, I believe.

15 Q. Do you remember telling him, after you had agreed to  
16 cooperate, telling him what your problem was?

17 A. I did tell David that I was in legal trouble, yeah.

18 Q. Do you remember telling him in a telephone conversation  
19 that you had not cooperated with the feds?

20 A. No, I don't think I ever told him that.

21 Q. Do you remember telling this man -- he was a friend,  
22 right?

23 A. It's a formal relationship because he's a much more  
24 accomplished journalist than I ever was, but I felt friendly  
25 towards him, yes.

1 Q. Do you remember telling him that you didn't tell the feds  
2 anything that they didn't already know?

3 A. I don't remember telling him that.

4 Q. Do you remember telling him that the fact that you were  
5 romantically involved with one of the people is what caused  
6 you to transgress your own values?

7 A. I don't remember -- I had a conversation with David where  
8 I told him I was in legal trouble. That's what I remember.  
9 If you have some notes or something to improve my memory, I  
10 would be happy to look at them.

11 Q. Sure, let me show them to you. I have marked them as  
12 A-190. I do have an extra copy for the Court.

13 (Exhibit A-190 marked for identification.)

14 MR. BLOOM: Let the record reflect that it's a  
15 two-page document being shown to the witness to refresh her  
16 recollection.

17 BY MR. BLOOM:

18 Q. Have you been able to read that?

19 A. Yes, I scanned it.

20 Q. Take as much time as you want to read it and understand  
21 it. Is there anything in there that refreshes your  
22 recollection about the questions I asked you?

23 A. It refreshes my recollection of the conversation -- well,  
24 it's clearly David's perspective on the conversation that I  
25 had with him.

1 Q. Well, did you tell David Carr, in a telephone conversation  
2 sometime after February 21 of 2006, did you tell him that you  
3 had not cooperated with the feds?

4 A. I don't know what date I talked to David.

5 Q. I am sorry?

6 A. I don't know if I talked to him before or after. This  
7 says that I told him I didn't. I didn't have any reason to  
8 lie to him. I probably hadn't talked to the feds at that  
9 point.

10 I also would just like to note, this says there's somebody  
11 who knows Stacy, but it's not me, the best of luck in  
12 defending your client.

13 Q. That's correct.

14 A. David believed that he was talking to my attorneys when he  
15 had this conversation, and my perception is that your  
16 investigator misrepresented themselves to my friend.

17 Q. Excuse me, but it says here, "You now remember that David  
18 said what?" Could you repeat what you said? That when David  
19 had this conversation?

20 A. He understood that he was talking to someone who worked  
21 for my attorney.

22 Q. How do you know that?

23 A. David wrote me a letter saying that my attorney had  
24 threatened to subpoena him and he was very upset about it.

25 Q. So the situation here -- it says here, the best of luck in

1 defending your client. That's the last comment in this report  
2 of an interview by our investigator; is that correct? Best of  
3 luck in defending your client?

4 **A.** David thought he was talking to someone who worked for my  
5 attorney.

6 **Q.** And that he was defending -- that he or she was defending  
7 you?

8 **A.** Yes, that my attorney defends me.

9 **Q.** Do you have a copy of that letter?

10 **A.** Yes, I do.

11 **Q.** I don't assume you have it with you; is that correct?

12 **A.** That's correct.

13 **Q.** It's in your belongings at Sea-Tac?

14 **A.** Yes.

15 **Q.** Do you think we could get a copy of that letter from David  
16 Carr?

17 **A.** Sir, I feel like you've harassed a prominent person who  
18 knows me. I don't really want to drag David's name into this.

19 **Q.** Whoever he was talking to -- let's give you that --  
20 whoever he thought he was talking to, is he correct when he  
21 said that, in a phone conversation that Lacey had with me,  
22 David Carr, she maintained that she had not cooperated with  
23 the feds?

24 Did you say that to him in a telephone conversation?

25 **A.** I don't know.



1 Q. Did you say to him in a telephone conversation that you  
2 had been accused of cooperating with the feds, but that you  
3 had never told the feds anything that they didn't already  
4 know?

5 Did you say that to David Carr? No matter what this  
6 letter is about, no matter who he spoke to, the question is:  
7 Did you say that to the New York Times journalist, David Carr,  
8 I didn't tell the feds anything they didn't already know?

9 A. I don't know.

10 Q. Try to remember.

11 A. I confessed to a prominent person who I knew that I had  
12 been involved in a major federal crime. I wanted to apologize  
13 to him and to kind of find out where we stood with each other.  
14 That's what I remember of the conversation.

15 Q. So your testimony is you don't remember whether -- one way  
16 or another -- whether you said that you didn't tell the feds  
17 anything they didn't already know?

18 You don't remember one way or another if you said that to  
19 David Carr?

20 A. Yes, sir, that is my testimony. Three times so far, I  
21 believe.

22 Q. Did you send e-mails to Brian Baker?

23 A. Yes, sir, I have sent e-mails to Brian Baker.

24 Q. You were hoping that he would write a letter for you, for  
25 Judge Burgess; is that correct?

1   **A.** Mr. Baker did write such a letter.

2   **Q.** One of the things that you told Mr. Baker, in writing, is  
3 I didn't betray anyone; is that correct?

4   **A.** I don't know, sir.

5   **Q.** I am going to get it in order so I can give copies to  
6 everyone, but I will show it to you in a little while. I am  
7 going to ask my co-counsel to try to put it together because  
8 it's one of those series of e-mails where they come in reverse  
9 order as they are printed out. So we've got to find one.

10       Did you write to Jeff Hogg by e-mail?

11   **A.** Yes.

12   **Q.** Did you tell him, "I didn't betray anyone"?

13   **A.** Mr. Bloom, I have been clear that I believed that the  
14 story was coming out. I thought the truth was coming out. I  
15 did not feel that confirming what the feds already knew was a  
16 betrayal of anyone.

17   **Q.** So you believe that what you were telling the feds is what  
18 they already knew?

19   **A.** Yes, and strangely enough, Jennifer Kolar didn't name me.  
20 I fingered myself because of my guilty conscience.

21   **Q.** So aside from what she said or didn't say about you, I  
22 want to get back to the point here, that you believe what you  
23 were telling them were things they already knew; is that  
24 correct?

25   **A.** Yes, I did have some feeling that they knew most of what I

1 knew, yeah.

2 Q. Right. Be specific, if you will. Please answer my  
3 question specifically.

4 Did you tell them what you believed they already knew?

5 A. No.

6 Q. I thought you just said that a moment ago.

7 A. I told them what I knew. I thought they knew it already.  
8 I was wrong.

9 Q. You told them -- here's my question. Please listen.

10 You told them what you thought they already knew; isn't  
11 that correct?

12 A. Emphatically, no.

13 Q. Didn't you just say that a moment ago, that's what you  
14 told, what you thought they knew?

15 A. Isn't it funny that you kind of restate it that way, and  
16 it seems like you are saying one thing, but it really has a  
17 dual meaning.

18 Q. Let's go back. Let's start over. None of those  
19 questions. Let's start over, okay? I don't want to trick  
20 you. I want you to answer the questions as best you can?

21 Did you tell them, the feds, the investigators, the people  
22 at this table what you thought they already knew?

23 A. I thought they knew the general outline of what happened.  
24 I told them what I knew.

25 Q. I don't think you are answering my question. Did you tell

1    them what you thought they already knew?

2    **A.**   I think that's a funny way to phrase the question because  
3    it has multiple meanings.

4    **Q.**   Let me try to break it down.

5        You're sitting there in Mr. Friedman's office the very  
6    first day; is that right?

7    **A.**   I was sitting in a conference at the federal building on  
8    February 21st, yes.

9    **Q.**   You were there, Mr. Offenbecher, your attorney, was there?  
10   Was there someone else from his office or just Mr.  
11   Offenbecher?

12   **A.**   Someone else from his office.

13   **Q.**   No one else?

14   **A.**   His assistant was there.

15   **Q.**   A young woman? A woman? A man?

16   **A.**   Excuse me, a woman.

17   **Q.**   Mr. Friedman was there?

18   **A.**   Mr. Friedman was there.

19   **Q.**   Was Mr. Bartlett there?

20   **A.**   Mr. -- I don't know. I think he was there -- yes, he was  
21   there the first day.

22   **Q.**   Was Agent Halla, the fellow at the end, was he there?

23   **A.**   Yes, he was there.

24   **Q.**   Was there any other agent, maybe Agent Torres?

25   **A.**   Mr. Torres was there.

1 Q. Anyone else that you can remember?

2 A. In that first interview, I think that was everyone that  
3 was there.

4 Q. There came a time when you decided, during that meeting,  
5 that you were going to give them information; is that correct?

6 A. Yeah, kind of right before that meeting when Lauren told  
7 me that Chelsea and Suzanne were cooperating, that kind of  
8 sealed the deal for me in any mind.

9 I was unsure what would happen. You know, I didn't make  
10 an affirmative decision to do it, but I walked in that door  
11 and the story came out.

12 Q. Well, when you say Lauren told you. Before you actually  
13 went into the FBI office, you and your father met Lauren  
14 either at or in front of a cafe?

15 A. That's correct.

16 Q. And the cafe was the Seattle Anarchist Cafe, something  
17 like that?

18 A. I think it has a different name. If it was an anarchist  
19 cafe, I didn't know it. I am not really familiar with  
20 Seattle.

21 Q. The woman here in the red outfit; is that correct?

22 A. That's correct.

23 Q. She gave you certain information on that morning; is that  
24 correct?

25 A. She told me she thought Suzanne and Chelsea were

1 cooperating, and we also talked that day about 924(c) and if  
2 there was any way around that.

3 Q. What is 924(c)?

4 A. Use or possession of an incendiary device in furtherance  
5 of a crime of violence. It carries a 30-year mandatory  
6 minimum.

7 Q. So she as a lawyer and you -- did you discuss that right  
8 there that morning?

9 A. Yes.

10 Q. Had you discussed that prior to that morning with her?

11 A. 924(c), I am not sure.

12 Q. Had you had discussions after she got back around  
13 Christmastime, Christmas Day, or thereafter, about the case in  
14 general?

15 A. Yes, sir.

16 Q. In fact, you wanted to get information from her as much as  
17 you could; is that correct?

18 A. Yes, sir.

19 Q. She had access to the information because she was in some  
20 way involved in the Oregon case; is that correct?

21 A. I think that she was involved, yes.

22 Q. As an attorney?

23 A. I am unsure what her capacity was.

24 Q. Did there come a time between December 26th and February  
25 21st that you and Lauren Regan had a conversation where you

1 asked her: Did Briana Waters' name come up in this case?

2 A. I don't remember that. It might have happened. I don't  
3 know.

4 Q. Well, you were trolling for some way out of your  
5 predicament?

6 A. No, I was trolling to understand the parameters of my  
7 predicament.

8 Q. Was it explained to you, either by Lauren or by any other  
9 lawyer or by any friends, that it's of no value to the feds to  
10 give them names they already know, you have to come up with a  
11 new name in order to get any kind of play with them?

12 A. No, that was never explained.

13 Q. That was never explained?

14 A. It was never explained and, in my experience, it's not  
15 accurate either. The prosecutors offered cooperation deals to  
16 everyone involved with the case whether or not they named new  
17 names or not. I don't really know but --

18 Q. Did they ask you if you knew where Justin Solondz was?

19 A. They probably -- yeah, I think they've asked that.

20 Q. He was a fugitive; is that correct? Or at least he hadn't  
21 been arrested; is that correct?

22 A. He's not arrested.

23 Q. Still not arrested?

24 A. Yeah.

25 Q. At the time, he was not arrested? On December 7th or any

1 day since; is that correct?

2 A. That's correct.

3 Q. So is that something with which the feds wanted some help?

4 A. They asked me if I knew where he was.

5 Q. So they wanted your help on that; is that correct?

6 A. If I had information, they wanted it, yes.

7 Q. So they wanted you to take from that that they wanted new  
8 information?

9 A. They never asked me about Justin Solondz except -- until I  
10 had named him.

11 Q. Then they asked you, do you know where he is, right?  
12 Words to that -- or questions to that effect?

13 A. Uh-huh.

14 Q. They wanted to know that new information; is that correct?

15 A. Yes, they wanted to know where Justin Solondz was.

16 Q. Was there a time, sometime in February of '06, before the  
17 21st, that you went to Mr. Friedman's office, where you took a  
18 walk along the river with Lauren Regan and you asked her, in  
19 the documents that you've gotten, the discovery documents  
20 you've gotten in the Oregon case, has Briana Waters' name come  
21 up?

22 You don't remember that?

23 A. I don't remember asking her that. I think I probably  
24 would have been reluctant to say Briana's name. I might have  
25 asked her that, though.



1 Q. Let's talk about the day you went to speak to the feds,  
2 February 21st.

3 Did they ask you what happened at the University of  
4 Washington arson?

5 A. No.

6 Q. They did not ask you?

7 A. They asked me my name, some background information and  
8 some generalized questions, and I confessed my criminal  
9 activity.

10 Q. You had not known until that day, at that meeting, that  
11 you were going to confess; is that correct?

12 A. I wasn't sure what I was going to do.

13 Q. Were you scared you were going to go to prison for 35  
14 years if you didn't tell them?

15 A. Yes.

16 Q. You made a decision right there in that office at that  
17 time to save yourself; is that correct?

18 A. Uh-huh.

19 Q. Now, you've indicated a couple times that this was about  
20 remorse. There had been no remorse for two-and-a-half months  
21 since Meyerhoff's remorse; is that correct? You had not  
22 expressed remorse?

23 A. No, I had expressed remorse.

24 Q. To the Federal authorities?

25 A. No.

1 Q. To your mother, your father and some friends?

2 A. Uh-huh.

3 Q. Did you express remorse to Stan Meyerhoff?

4 A. I don't know. Stan was in jail and we had very limited  
5 communication.

6 Q. But you had some communications, right?

7 A. Yes.

8 Q. You saw him at least once?

9 A. I saw him only once.

10 Q. You saw him once where you pointed to your chest and asked  
11 if he had named you, right?

12 A. Yes.

13 Q. Did you have telephone conversations with him?

14 A. Yes, I had telephone contact with him, starting on  
15 Christmas.

16 Q. But it was very difficult because you knew everything was  
17 probably being listened to and censored and monitored; is that  
18 correct?

19 A. Uh-huh.

20 Q. So you had to be very careful about what you said; is that  
21 correct?

22 A. Yes, sir.

23 Q. You didn't want to incriminate yourself or have him  
24 incriminate himself?

25 A. Or incriminate me.

1 Q. Or incriminate you. So you were concerned. When did you  
2 first learn that he had been cooperating since two hours after  
3 he was arrested?

4 A. Well, I strongly suspected that the day after when I  
5 talked with him and he said this very fatalistic thing -- I  
6 don't remember what it was -- and I told him to get an  
7 attorney. And then there came a point where he said this  
8 thing to me, which stuck in my mind, he said that I betrayed  
9 everyone.

10 Q. When he said betrayed, what did you take that to mean?

11 A. That he was cooperating to the best of his ability.

12 Q. I can't remember, did you say you do or don't remember  
13 that you used the word betrayed; that you wrote to Jeff Hogg  
14 and others, saying "I did not betray anyone"? Do you or do  
15 you not remember that? I am asking again because I don't  
16 remember the answer.

17 A. I don't remember the answer either. It's possible I used  
18 those words.

19 Q. If you did, then what did you mean by your use of the word  
20 betrayed?

21 A. No one is going to prison because of me, is what I would  
22 have meant.

23 Q. That's what you meant, that nobody is going to prison  
24 because of you?

25 A. I didn't think I had given any names that the federal

1 authorities did not already know.

2 Q. Isn't that the question I asked you 12 minutes ago, where  
3 you denied that? You just said now, I don't believe -- I  
4 believe I didn't give them any names they didn't already know?

5 A. No. The way you said it was, did you tell them what they  
6 already knew? You rephrased the question like that a number  
7 of ways, a number of times.

8 Q. Now you've just answered it?

9 A. No, that's a different question.

10 Q. Whatever it is, however the question came up. You just  
11 said to us, and to this jury, I didn't give them any names  
12 they didn't already know.

13 A. I believed that, and I was wrong. I named myself.

14 Q. Other than yourself, is it true that you didn't give them  
15 any names they didn't already know?

16 A. I don't know what they knew and what they didn't know. I  
17 think that I definitely fingered myself definitively. They  
18 may have had my name already. I am not privy to what the  
19 government knew.

20 Q. You knew, your family had been contacted and told that you  
21 were facing serious problems, right?

22 A. Yes.

23 Q. So you knew somehow they had your name?

24 A. I assumed Jen Kolar had given it to them.

25 Q. You learned your boyfriend had also given them your name

1 -- I shouldn't say also -- that your boyfriend had given them  
2 your name; he told you so?

3 A. Yeah, he did tell me that.

4 Q. So you knew, by the time you spoke to them, that they had  
5 your name?

6 A. Well, yes, they had my name. They called me. My number  
7 was up.

8 MR. BLOOM: Judge Burgess, the prosecutor had asked  
9 if it's okay to interrupt the witness's testimony so that they  
10 can call one or two other witnesses. We will do that. We  
11 hadn't actually given a definitive answer, but I would be  
12 happy to do that. If we could do that now, would that be all  
13 right?

14 THE COURT: Well, if you get to the witnesses after  
15 the break, can you finish them today?

16 MR. FRIEDMAN: Yes.

17 MR. BLOOM: Because I do have a lot more questions.

18 THE COURT: Keep going.

19 BY MR. BLOOM:

20 Q. I do want to talk about what you told the feds on that  
21 very first day. Did you tell them about the University of  
22 Washington arson?

23 A. Yes, I volunteered that information.

24 Q. When you say you volunteered it. Did they actually ask  
25 about the Center for Urban Horticulture, or did you bring it

1 up first, say there's something I want to tell you?

2 How did that come up?

3 **A.** I am not sure. I think I brought it up without them ever  
4 asking about it. I am not sure.

5 **Q.** Did you first tell them, before you talked about that  
6 incident, did you first tell them about the five book club  
7 meetings?

8 **A.** I am not sure what order the conversation happened in. I  
9 did tell them about the five book club meetings.

10 **Q.** Did you tell them that there came a time when you were  
11 dropped off at Denny's, sometime a week before the incident?

12 **A.** Yes.

13 **Q.** Did you tell them it was either Denny's or Perkins?

14 **A.** Yes.

15 **Q.** So you weren't quite clear on that at the time you first  
16 told them; is that correct?

17 **A.** I have been back to the Denny's since then.

18 **Q.** So now you are clear?

19 **A.** Yes.

20 **Q.** Did you tell them, without being asked, that Briana and  
21 Connor had recently broken up?

22 **A.** I would have told them that. That was my understanding.

23 **Q.** And that just came up, when the name Connor came up,  
24 brought up by you, you volunteered, without being asked, that  
25 Connor and Briana had just broken up; is that correct?

1   **A.** I am not sure whether I was asked or not asked. I think I  
2 probably described Briana as his recent ex-girl friend. That  
3 was my understanding. It still is my understanding.

4   **Q.** Now, we've talked about the meeting that you now recall  
5 was at Denny's. Was Jennifer Kolar there?

6   **A.** I am not sure. I don't think I remembered at first that  
7 she was. I am really not sure. She might have been, she  
8 might not.

9   **Q.** As I think you testified, the arson wasn't planned in any  
10 part at that restaurant, what's called Denny's. There was no  
11 arson planned in discussion at that restaurant; is that  
12 correct?

13   **A.** The arson was not plotted there, no. Not while I was  
14 there.

15   **Q.** I am sorry?

16   **A.** Not while I was there.

17   **Q.** Was there a time you left to go to the bathroom or take a  
18 walk or make a phone call?

19   **A.** During the course of the interview?

20   **Q.** During the course of the meeting that took place at  
21 Denny's.

22   **A.** I don't remember.

23   **Q.** Now, I think you said that after you all left Denny's --  
24 somebody ordered food, and then you left Denny's and you went  
25 somewhere together and had a discussion?

1   **A.**  No.  You asked me where we went afterwards.  I said it  
2   would make sense that that would happen, but I don't have a  
3   memory of it.

4   **Q.**  So the meeting at Denny's took place what date, what day  
5   of the week?

6   **A.**  I believe it would have been Friday or Saturday, a week  
7   prior to the arson.

8   **Q.**  Okay.  You don't recall Jennifer Kolar being at Denny's;  
9   is that correct?

10  **A.**  No.  I am unsure if she was there.

11  **Q.**  I am sorry?

12  **A.**  I am unsure if she was there.  I think she might have  
13  been.

14  **Q.**  You are also unsure whether right after Denny's, whoever  
15  was there, went to some open area and had a discussion?  You  
16  don't remember; is that correct?

17  **A.**  I don't remember.

18  **Q.**  Well, do you remember, did there come a time when you left  
19  the area of Denny's?

20  **A.**  I don't remember.  I am sorry, I thought you meant while I  
21  was there.  I don't remember leaving for sure or going to the  
22  bathroom or anything while I was there.  Obviously we left  
23  Denny's at some point.

24  **Q.**  Right.  And where did you go?  You don't remember anything  
25  about where you went?



1 A. No, sir, I don't remember where we went. The next clear  
2 memory I have is being on the track the next morning.

3 Q. So you don't remember whether or not there was a meeting,  
4 after you left Denny's, until the time you were on the track  
5 the next morning?

6 A. No, I don't remember.

7 Q. Okay. So you don't remember one way or another.

8 When you say the next morning, what day of the week was  
9 that?

10 A. The next morning, it was probably Saturday morning or  
11 Sunday morning.

12 Q. Can you remember which it was?

13 A. Not with any absolute certainty.

14 Q. Was there a meeting any time after you were on the track?

15 A. Yeah.

16 Q. Where was that meeting?

17 A. We met in a park-like area in a field.

18 Q. And who was at that meeting?

19 A. Myself, Jennifer Kolar, Briana Waters, Justin Solondz, and  
20 Avalon.

21 Q. How did you get from the track to that meeting?

22 A. I can't answer that question.

23 Q. How long did that meeting take?

24 A. I don't know. The significant features of that meeting in  
25 my mind were that Jen described breaking the window. I asked

1 that we not use the term ELF, and we vowed, agreed not to  
2 cooperate.

3 Q. Was there any meeting after that, that weekend.

4 A. I believe that all of these meetings happened -- the first  
5 weekend we met at Evergreen one time, and in my memory it  
6 would seem that meeting was after that park meeting.

7 Q. At the Evergreen meeting, was the arson discussed?

8 A. Yes.

9 Q. And Evergreen is the state college or state university?

10 A. Yes.

11 Q. Is it a place where -- were you in a room?

12 A. I remembered that we went -- and I couldn't describe the  
13 building we went in -- and walking through this labyrinth. I  
14 read somewhere Jen had described it as a computer lab, and I  
15 didn't remember it that way, but once I read it, it actually  
16 kind of triggered that it was off a computer lab, is what I  
17 remember.

18 Q. Computer lab. Was it a locked room?

19 A. Sir, I don't know.

20 Q. Were there students, a lot of students at the University;  
21 is that correct?

22 A. There are lots of students at Evergreen University, yes.

23 Q. And there was a meeting, you say, about an arson in a room  
24 where there were possibly students who could walk in or  
25 faculty who could walk in; is that correct?

- 1   **A.** They could have walked in.
- 2   **Q.** Was Kolar there?
- 3   **A.** I believe she was, yes. I think she was.
- 4   **Q.** Did anybody say, why are you meeting here in a public  
5 room, somebody could walk in?
- 6   **A.** I don't remember that conversation happening.
- 7   **Q.** You would have been aware of that, right? You were  
8 somewhat security conscious, right?
- 9   **A.** That would have been fitting with security protocols that  
10 were comfortable to me.
- 11   **Q.** I am not sure what you mean by that?
- 12   **A.** That was consistent with our security culture.
- 13   **Q.** What was? Meeting in a room where somebody could walk?
- 14   **A.** Speaking in an empty room, unassociated, guaranteed to be  
15 bug free.
- 16   **Q.** Aside from bug free, was it a room that was open to the  
17 students and public in general, and faculty?
- 18   **A.** Briana and Justin seemed familiar with the room.
- 19   **Q.** And they were both there?
- 20   **A.** Yes.
- 21   **Q.** And what happened after that meeting?
- 22   **A.** Let's see. I think in the timeline, the next thing I  
23 remember would be driving back to Eugene.
- 24   **Q.** In whose car?
- 25   **A.** In Stan's car. And we stopped at the pullout on the

1 opposite side of the highway than the one we had stopped at on  
2 the way up.

3 Q. How did you get to meet with Stan?

4 A. I don't remember.

5 Q. Did he pick you up at Evergreen?

6 A. That's possible.

7 Q. Do you remember?

8 A. No, I don't remember. I just said that.

9 Q. So you and he took -- somewhere or another you wound up in  
10 his car; is that correct?

11 A. Yes.

12 Q. And you drove to Eugene?

13 A. Yes.

14 Q. Was it just the two of you, or were there other people?

15 A. I believe Suzanne Savoie and Daniel McGowan were there.

16 Q. Did you talk about any plans for any arsons in the car?

17 A. No.

18 Q. Where did you go when you went back to Eugene?

19 A. I don't remember where I was dropped off.

20 Q. Did you live in Eugene?

21 A. I lived in Eugene at that point.

22 Q. Where were you living in Eugene?

23 A. It would have been in the house with Lauren Regan.

24 Q. The same Lauren Regan?

25 A. The same.

1 Q. You didn't tell her you were planning an arson, right?

2 A. I didn't tell Lauren that I was planning an arson. I  
3 believe Lauren knew that I was involved in underground  
4 activities and was supportive of that.

5 Q. Did you tell her you were planning an arson?

6 A. I wasn't planning an arson. I didn't tell her I was about  
7 to be involved in one.

8 Q. You were not planning an arson?

9 A. Like I said, I had minimal involvement in the planning.  
10 What I did in that timeframe was buy some black clothes, some  
11 black dark clothes.

12 Q. Did you conceal from Lauren Regan what you were about to  
13 do?

14 A. I concealed from everyone what I was about to do, except  
15 for the people directly involved.

16 Q. So you were able to deceive people about what was on your  
17 mind; is that correct?

18 A. Deception is not a particular skill that I have. I had to  
19 learn how to be evasive when I started being involved with  
20 this group of people. It was difficult for me because I was,  
21 especially at that point, a very, very open,  
22 apt-to-put-what-I-thought-into-words person.

23 Q. In any event, you did not open up, of course, and tell  
24 anyone you were about to be involved in burning down a  
25 building; is that correct?

1   **A.**   Correct.

2   **Q.**   You were able to keep that a secret; is that correct?

3   **A.**   Yes.

4   **Q.**   Now, going back to that first weekend, was there a time,  
5 was there a meeting at Evergreen where -- who was present at  
6 that meeting?

7   **A.**   The same people.

8               MR. FRIEDMAN:   Objection, Your Honor.   This has all  
9 been asked and answered.

10 BY MR. BLOOM:

11 **Q.**   Was Jennifer Kolar at that meeting?

12               MR. FRIEDMAN:   Objection, Your Honor.

13               THE COURT:   Mr. Bloom, any reason why we are going  
14 back and forth over the same --

15               MR. BLOOM:   Yes, Your Honor.   I am about to ask her  
16 what she told -- about to impeach her where she indicated that  
17 Jennifer Kolar was not at that meeting, as she told them on  
18 the 21st.

19 **A.**   Yes, sir, I do not remember the conversation about fuel,  
20 how much --

21 BY MR. BLOOM:

22 **Q.**   About fuel?

23 **A.**   About how much fuel to use on the 21st.

24 **Q.**   No, that's not my question.   My question is, on the 21st  
25 of February of 2006, did you tell Mr. Friedman, and everybody

1 else who was present, that Diver was not there at the  
2 Evergreen meeting?

3 **A.** I may have said that on February 21st.

4 **Q.** Would that have been true or not true?

5 **A.** That was accurate to my recollection at that point in  
6 time.

7 **Q.** So is there something that helped you refresh your  
8 recollection?

9 **A.** Yeah. Actually, I think I did remember the conversation  
10 about fuel at that first interview, but later I remembered it  
11 was Jen who advocated for using less fuel.

12 **Q.** My question is, on the first day you spoke to law  
13 enforcement, did you in fact tell them that Diver, Jennifer  
14 Kolar, was not present at the meeting you say took place at  
15 Evergreen? Did you tell them that on the 21st, February of  
16 2006?

17 **A.** I believe I could have told them that, yes.

18 **Q.** You were essentially making it up as you went along in  
19 February 2006; is that correct?

20 **A.** I think that would be a gross mischaracterization of what  
21 I just said.

22 **Q.** You know you had committed the arson; is that correct?

23 **A.** Yes, I know I had committed the arson.

24 **Q.** You knew Jennifer Kolar was one of the people who  
25 committed the arson with you; is that correct?

1   **A.**   Yes, sir.   That's why I named her.

2   **Q.**   But you didn't name her as being at that meeting that you  
3   say took place at Evergreen; is that correct?

4   **A.**   I just answered that question.

5   **Q.**   Was she in fact at one of the meetings that weekend, or  
6   more than one?

7   **A.**   I remember her very distinctly, or somewhat distinctly, at  
8   the meeting in the grass and at the Evergreen meeting.

9   **Q.**   So you remember her being at two of the meetings; is that  
10   correct?

11   **A.**   I have distinct recollections of conversations that she  
12   was part of at two of the meetings, that's correct.

13   **Q.**   Did you tell Mr. Friedman and his associates on the 21st  
14   that she, Diver, was at one of the meetings that weekend?

15   **A.**   I am not sure.   I haven't looked at the reports from those  
16   interviews.

17   **Q.**   Do you have an independent recollection that you said that  
18   Diver was at one of the meetings that weekend?

19   **A.**   That seems accurate.

20   **Q.**   Now, the next weekend you say you drove up from Eugene, is  
21   it to Olympia?

22   **A.**   The next weekend I drove up from Eugene to Olympia, I  
23   believe, yes.

24   **Q.**   With whom did you drive up?

25   **A.**   I believe it was with the same four people.



1 Q. Who would that be?

2 A. Stan Meyerhoff, Suzanne Savoie, Daniel McGowan, and  
3 myself.

4 Q. Now, from Eugene to Olympia, what direction is that?

5 A. North.

6 Q. And about how long a drive is it between Eugene and  
7 Olympia?

8 A. I don't know. It's been a long time since I drove it.

9 Q. What's your best estimate?

10 A. Four, five hours; I don't know.

11 Q. Okay. Do you know where Clatskanie, Oregon, is?

12 A. I do now. I didn't at that point. I think I know -- no,  
13 I don't really know where it is now.

14 Q. Well, it is certainly south of Olympia, right?

15 A. It's in Oregon, yes.

16 Q. Am I correct that the people you say you drove up with --  
17 Meyerhoff, Savoie, McGowan -- were they in some way involved  
18 in the Clatskanie incident?

19 A. Meyerhoff, Savoie, McGowan, Block, and Zacher are the  
20 people who I thought were involved in the incident and who  
21 pled guilty to that.

22 Q. So you have them driving from Eugene up to Olympia; is  
23 that correct?

24 A. I believe they probably went to Nathan and Joy's house,  
25 but I don't have any way to verify that.

1 Q. You were with them on the ride, you say?

2 A. Are we talking about the weekend of the arson?

3 Q. The weekend you committed the arson.

4 A. I believe that is how I got there. I remember I was in a  
5 car with the same people the next weekend, yes.

6 Q. And what day was that?

7 A. Let's see. I think it was -- the arson happened on early  
8 Monday. It was either Saturday or Sunday of that weekend.

9 Q. Think back. Was it Saturday or Sunday or some other day?

10 A. Well, it would have only been one of those two days. I  
11 think it was Sunday.

12 Q. So on Sunday you drove up. What time did you leave  
13 Eugene?

14 A. I have no idea, sir.

15 Q. Was it in the morning?

16 A. I have no idea.

17 Q. Was it light out?

18 A. Sir, I don't know.

19 Q. You remember being in the car with the particular people,  
20 but you can't tell us whether it was even light or dark?

21 A. I know I drove in the car with the same people the next  
22 weekend. That's my best recollection.

23 Q. Where did you go on that Sunday when you drove from Eugene  
24 to Olympia?

25 A. I don't know. To Olympia.

1 Q. What part of Olympia?

2 A. Sir, I can provide no additional detail on that question.

3 Q. Somebody's home, somebody's office, some restaurant?

4 MR. FRIEDMAN: Objection. Asked and answered.

5 THE COURT: She said she has no recollection.

6 MR. BLOOM: Okay, no recollection.

7 BY MR. BLOOM:

8 Q. Did there come a time when Stan Meyerhoff, you saw him  
9 assisting in the construction of incendiary devices?

10 A. No, I didn't see him assisting in the construction.

11 Q. Did you see Connor doing so?

12 A. I didn't witness that firsthand, except at the point when  
13 I was taken into the clean room.

14 Q. I didn't hear the last part?

15 A. I didn't witness anything happening with the incendiary  
16 devices except at the point where I was taken into the clean  
17 room.

18 Q. Was Meyerhoff there in that house or the area of that  
19 house?

20 A. It's possible that I saw him there at one point, but it's  
21 a hazy memory.

22 Q. Well, he was your boyfriend.

23 A. No, he wasn't my boyfriend at that point.

24 Q. Had you been flirting with him at that point?

25 A. I was starting to have a flirtatious relationship with

1 him.

2 Q. So you are not aware -- you believe you saw him in what  
3 you are calling the clean room?

4 A. Huh-huh.

5 Q. In the area of the clean room?

6 A. If I saw him, it was walking from the right access, the  
7 fenced opening of the house, to the outbuilding, walking in  
8 between.

9 Q. Was it light out?

10 A. Yes, if this memory is accurate, which I am not sure that  
11 it is.

12 Q. So you are not sure; is that correct?

13 A. If I saw that, I knew I wasn't supposed to see it, so I  
14 would have put it out of my mind.

15 Q. And you were not supposed to see it why?

16 A. The two actions were supposed to remain independent of one  
17 another, as far as I was concerned.

18 Q. And that was the information that you had, is that  
19 correct, that there were two actions?

20 A. I had an understanding that two crimes were going to be  
21 committed. I didn't know they were both arsons.

22 Q. Okay. You mentioned a clean room. What is a clean room?

23 A. It's a room free of our genetic material and identifying  
24 information and material associated with the site.

25 Q. And the idea behind a clean room is that a hair or some

1 skin or any kind of material that would identify a person, a  
2 clean room should not involve that. That's the whole idea, it  
3 should be clean of those kind of things; is that correct?

4 **A.** Yes, sir.

5 **Q.** Is it also true, based on the manuals written by your  
6 fiancée and Avalon, that the clean room should be associated  
7 only with a person who is not involved in the arson?

8 **A.** I can't speak to anything in the manuals.

9 **Q.** Well, were there discussions about what a clean room  
10 should be that you participated in?

11 **A.** I think at that Santa Cruz meeting, the book club meeting  
12 there was a conversation about the clean rooms.

13 **Q.** Am I correct that it was made clear that clean rooms are  
14 supposed to be unassociated, unconnected with any of the  
15 people who will be participating in the arson?

16 **A.** The fact that there were deviations from the perfect crime  
17 is completely consistent with the way the groups operated.

18 **Q.** Could you answer my question? Were there discussions that  
19 indicated that a clean room should never be associated with a  
20 person who is a participant in the arson?

21 **A.** I don't remember that being part of the Santa Cruz  
22 conversation. It would have been your fibers and materials  
23 shouldn't be in the space.

24 **Q.** In fact, the place that you are claiming the clean room  
25 was, was a garage at Conger Avenue in Olympia?

1   **A.** I don't know the street name. It was Briana's house, as  
2 far as I am concerned.

3   **Q.** And Briana lived, her living space was in that garage?

4   **A.** It wasn't at that point.

5   **Q.** And how do you know that?

6   **A.** There wasn't a bed.

7   **Q.** In fact, the main house was owned by a man named Ocean; is  
8 that correct?

9   **A.** I knew that someone named Ocean was associated with the  
10 house.

11   **Q.** And in fact, at that time, the middle of May, he was not  
12 living at that house. You came to learn that, didn't you?

13   **A.** I associated this person, Ocean, with the house. I don't  
14 know whether I thought he lived there, was about to move in  
15 there. Maybe they were waiting for a wheelchair ramp to be  
16 built, I don't know.

17   **Q.** In fact, what was happening, Ocean had been in an  
18 automobile accident where he was very severely injured and he  
19 was a person who had to use a wheelchair. You know that,  
20 right?

21   **A.** No, except that I have been told that.

22   **Q.** And in fact, that third week and beyond, the third week of  
23 May and beyond, and before, there were workers working on the  
24 main house, not just to build a wheelchair ramp, but to make  
25 it accessible and liveable for a person with a wheelchair.

1 Did you see any of that happening?

2 **A.** I kind of have a memory that maybe a wheel chair ramp was  
3 in progress or was about to be built there, but I was there on  
4 the weekends.

5 **Q.** So, in fact, there was construction; do you remember there  
6 was construction going on in the main house?

7 **A.** I only saw a very limited part of the main house. I don't  
8 really remember a big construction project.

9 **Q.** In fact, did you come to know that nobody was living in  
10 the main house at that time because of the construction?

11 **A.** Did I come to know that?

12 **Q.** Yes, ma'am.

13 **A.** No. It makes sense that there was construction going on  
14 because there was maybe framing-in for a room in the house  
15 that was the clean room that no one was living in.

16 **Q.** I am talking about construction in the main house; not in  
17 the garage where Briana lived, but in the main house.

18 **A.** She did not live in the garage at that time.

19 **Q.** How do you know that?

20 **A.** There was no bed or furniture. If it was a bedroom, it  
21 was living out of crates, sleeping on the floor.

22 **Q.** Did you see the whole garage?

23 **A.** I believe I saw the whole garage eventually. I don't  
24 know.

25 **Q.** Did you or didn't you?

1   **A.** I saw a main area, and then eventually I was in the clean  
2 room, and I believe that was the whole area.

3   **Q.** So this was a clean room associated with a person you say  
4 was involved in this incident, this arson; is that correct,  
5 that's what your testimony is?

6   **A.** Yes.

7   **Q.** And contrary to the manual written by Avalon and your  
8 fiancée, they decided it was okay to risk DNA material being on  
9 some of the devices, that's your testimony?

10   **A.** I am sorry, what's the question?

11   **Q.** That you are saying that what was chosen as a clean room,  
12 contrary to all the writings in the manual, was a place where  
13 a person you claim was a participant -- let's not say she was  
14 living there -- she was associated with that space, she spent  
15 time in that space?

16   **A.** I think there are three factual claims in your question.  
17 I refute them all.

18   **Q.** Well, you are an intelligent person. I ask you to help me  
19 parse them out. I am not so good with that.

20   **A.** To start with, I don't think Stan had a very big role  
21 writing the manual. To continue, I haven't read the manual  
22 and I can't speak to what's in it.

23       The idea that we worked perfectly in alignment with  
24 something Avalon wrote is wrong. We didn't. There were many  
25 small things that could not be done in the ideal manner.



1           And I think there was one other claim in there that I  
2 didn't agree with.

3   **Q.** How about getting the car arranged at least 36 hours in  
4 advance, do you know anything about that? Was that another  
5 rule that was broken?

6   **A.** I have never heard the 36-hour-in-advance rule.

7   **Q.** Okay. Did you --

8           THE COURT: Why don't we stop you right there,  
9 Mr. Bloom, so the jury can take the afternoon recess.

10          Leave your books on the chair, don't discuss the case. I  
11 will have you back in here in about 15 minutes.

12          (Jury excused.)

13          THE COURT: You may be seated.

14          I guess we are talking about the other witness now, the  
15 government's witness, taking them out of turn. Is that what  
16 we are talking about?

17          MR. BLOOM: I think there may be two.

18          THE COURT: Will you line those up.

19          We will be at recess.

20          THE CLERK: All rise. Court is in recess.

21          (Afternoon recess.)

22          (Jury not present.)

23          THE COURT: Are we ready to continue with  
24 Ms. Philabaum?

25          (Jury present.)

1 THE COURT: All right. You may be seated.

2 We are going to continue the rest of the day with  
3 Ms. Philabaum.

4 Mr. Bloom.

5 MR. BLOOM: Okay.

6 BY MR. BLOOM:

7 Q. On the very first day that you spoke to law enforcement,  
8 February 21, did you tell them that Connor and Briana Waters  
9 were both lookouts?

10 A. I don't think so.

11 Q. I ask you to look at a page of a document and read it to  
12 yourself, in particular the entry, the first highlighted  
13 entry, and see if that refreshes your recollection as to what  
14 you told them on the very first day.

15 MR. BLOOM: May the record reflect that the clerk is  
16 showing Exhibit A-191. The whole document is A-113.

17 THE COURT: Is what?

18 MR. BLOOM: A-113. It's one page from that document.

19 BY MR. BLOOM:

20 Q. If you could look, there's a couple of highlighted  
21 portions. If you could look, I think it's the very first one,  
22 toward the top. Does that in any way refresh your  
23 recollection as to whether or not you said, on the very first  
24 day, that Connor and Briana were the lookouts?

25 A. This says that I said that.

1 Q. Well, did you say that? Does that refresh your  
2 recollection?

3 A. I am very particular about my notes, and I would never  
4 want someone else's notes of what I said to be taken as my  
5 word.

6 Q. Did you -- can I get that back? Thank you.

7 May I take it from you? Thank you.

8 So you are saying that somebody must have gotten it wrong.

9 A. I am not sure if I said that or if they got it down wrong.  
10 I don't think I said that. I may have at one point used the  
11 term "lookout." My main memory is that he was the driver.

12 I think at later interviews they pushed me hard on the  
13 point of whether he was in the building; whether he was also a  
14 lookout. I tried to be consistent with the fact that what I  
15 remember is that he drove.

16 Q. After he drove, what did he do?

17 A. I am not sure.

18 Q. So you are not sure if he was a lookout, or what was it?

19 A. I am not sure if he stayed in the car or was a lookout.

20 Q. Or came with you?

21 A. I am pretty sure he was not at the building.

22 Q. Do you remember seeing him do anything in relation to the  
23 building, from close up to the building?

24 A. No.

25 Q. So your position here is that there was one lookout, and

1 you're saying that that was Briana Waters; is that correct?

2 **A.** Yeah. If Justin filled the role as someone who was a  
3 lookout at some other point during the action, I don't have a  
4 clear memory of that.

5 **Q.** Jennifer Kolar, on May 20 -- that would be Sunday -- when  
6 did you first see her? Did you have an appointment to meet  
7 her at a particular time?

8 **A.** I don't know.

9 **Q.** Well, there did come a time when you met her, you say, at  
10 a restaurant?

11 **A.** We ended up at the Greenlake Pub together.

12 **Q.** Could you say it a little louder?

13 **A.** We ended up at that bar together that I was shown a photo  
14 of.

15 **Q.** That was by happenstance or a prearrangement to meet her  
16 at that bar or restaurant?

17 **A.** I am not sure.

18 **Q.** Before you went to the restaurant -- well, let me go back.  
19 You drove up from Olympia, and you are claiming that it was  
20 you, Briana, Justin, and Avalon, is that what you're saying?

21 **A.** No. I think that might be in that report, but I don't  
22 think that I said that. I don't have a clear recollection of  
23 how I got to Seattle. I have a memory at some point, perhaps  
24 during these two weekends, of being in a car with Jen Kolar.  
25 It's possible that I drove there with her.

1 Q. So we are talking now about the evening, let's say  
2 afternoon and evening, 12 hours before the incident. The  
3 incident was about what time of day?

4 A. It was after dark; maybe 11:00, 12:00.

5 Q. And that was the arson. When I say the incident, the  
6 arson; is that correct?

7 A. Yes.

8 Q. Had you been in Olympia or had you been in Eugene before  
9 you went to Seattle?

10 A. I am not sure. I think I was probably in Olympia. I  
11 think I was probably dropped off somewhere in Olympia and  
12 somehow given a ride to Seattle, but I couldn't testify to  
13 that with any certainty.

14 Q. Well, did you drive -- let's go back.

15 What day of the week -- talking now about the weekend of  
16 the incident, the weekend of the arson. What day of the week  
17 did you go to Olympia?

18 A. I think that would have been Sunday.

19 Q. Did you travel from Eugene or from somewhere else?

20 A. From Eugene, I believe.

21 Q. How did you get from Eugene to Olympia on Sunday?

22 MR. FRIEDMAN: Objection, Your Honor. This has been  
23 asked and answered.

24 MR. BLOOM: This has not all been asked.

25 THE COURT: It's been asked a whole bunch of times.

1           Go ahead and answer.

2   **A.** I was in a car, Stan's car, I believe, with the same four  
3 people I remember being in the car with both weekends;  
4 Suzanne, Daniel, Stan, and myself.

5   **Q.** This was sometime on Sunday, which would have been May 20;  
6 is that correct?

7   **A.** I believe so, yes.

8   **Q.** Do you remember where you went, where in Olympia you went?  
9 Did you go to the place where the clean room was?

10           MR. FRIEDMAN: Objection, Your Honor. It's been  
11 asked and answered.

12           THE COURT: Let her answer it.

13           Can you answer it?

14   **A.** It may have been that I went to the clean room that  
15 weekend. I am not sure which weekend the clean room incident  
16 occurred.

17 BY MR. BLOOM:

18   **Q.** When was this device built?

19   **A.** I didn't build it. I don't know.

20   **Q.** When did you see it being built?

21   **A.** I saw it at one point in time. It's hard for me to attach  
22 each of those points in time together into a continuous reel.

23   **Q.** Can you tell us if it was the weekend of the arson or the  
24 weekend before the arson? Can you tell us that much?

25   **A.** When I was taken to the clean room?

1 Q. When you say you were taken to the clean room, yes.

2 A. I think that was the weekend of the arson.

3 Q. Was Meyerhoff in the vicinity of that house?

4 A. If he was, I didn't know it. I may have had an image of  
5 him at one point, but I can't connect it to other points in  
6 time. If I could talk to other people involved, I am sure I  
7 would remember things I don't know now, but I have never had  
8 that opportunity. This is entirely my own memory.

9 Q. I point out that I am talking about the arson, the weekend  
10 of the arson that you are testifying about, that you are  
11 giving the jury testimony about who did what. I am not  
12 talking about the weekend before, the year before. I am  
13 talking about the arson. If you could focus your mind on that  
14 issue.

15 A. Okay.

16 Q. You came up, you said you came up on Sunday, you came up  
17 from Eugene to Olympia, but you are not sure just where you  
18 went to; is that correct?

19 A. That's correct.

20 Q. And you were with Suzanne Savoie. Did they just drop you  
21 off, the people with whom you rode, or did they stay in the  
22 location where they brought you to?

23 A. I have no recollection of Suzanne Savoie or Daniel McGowan  
24 interacting with the people involved with the University of  
25 Washington arson other than myself and Stan.

1 Q. Do you have any recollection that weekend, the weekend of  
2 the arson, of Stan Meyerhoff interacting with anything to do  
3 with what you are calling the clean room?

4 A. Only if that memory of him walking towards the building is  
5 accurate.

6 Q. Did you tell the authorities on February 21 that it was  
7 either Stan, that Stan may have been involved in building the  
8 device or devices? Did you tell that to them?

9 A. Yes, I may have told him that, I am not sure. If I told  
10 him that, it was for that reason. I also think I generally  
11 sort of understood that Stan and Justin and Avalon were in  
12 charge of the devices for both.

13 Q. My question was, on that Sunday, did you tell the  
14 authorities, when you first spoke to them February 21, that  
15 Stan and Connor were rushing to finish the devices?

16 A. That's accurate.

17 Just to point out. When I am speaking, I am really trying  
18 very hard to be accurate, and the strength of my memory with  
19 each particular question, and there's no way that the agents  
20 could have written down my careful qualifications of each  
21 statement that I have made.

22 Q. Well, having said that, my question is, did you tell the  
23 agents and Mr. Friedman and whoever else was in the room on  
24 February 21 that Stan and Connor were rushing to finish the  
25 devices?



1   **A.** That's consistent with what I remember. It would make  
2 sense if I told the agents that.

3   **Q.** Okay. Now, was that because Stan had to take one or more  
4 devices from Olympia to Clatskanie, Oregon?

5   **A.** I am sorry, sir, I don't have any more detailed knowledge  
6 about it than that.

7   **Q.** I am sorry?

8   **A.** I don't have any more detailed knowledge than what I have  
9 already said.

10   **Q.** Do you now have a distinct recollection that Stan and  
11 Connor were working on the devices?

12   **A.** I don't have a distinct recollection in my mind of seeing  
13 that. I remember having a distinct understanding that that's  
14 what was happening.

15   **Q.** Did you know at the time -- that would be that Sunday, May  
16 20 -- that there was going to be a joint action?

17   **A.** I believe I understood at that point that there was going  
18 to be two simultaneous actions, yes.

19   **Q.** Did you tell Agent Halla and Mr. Friedman and the other  
20 people present on the 21st of February that you did not know  
21 it was going to be a joint action?

22   **A.** I did not know it was going to be a joint arson.

23   **Q.** No, my question was, did you tell them you did not know it  
24 was going to be a joint action?

25   **A.** If they wrote that down, I would think they wrote it down

1 incorrectly, because I did know that other people were going  
2 to Seattle and Olympia to be involved in another crime. I  
3 didn't know what that crime was.

4 Q. To Seattle and Olympia to be involved in another crime?

5 A. No, I guess it was to Olympia. I don't know. They were  
6 in the car when I got out in Olympia. They were on their way  
7 to a crime. That was my understanding.

8 Q. That was going to be in Olympia, as you understood it?

9 A. I had no knowledge of what or where it would be.

10 Q. Were you surprised when it turned out to be Clatskanie,  
11 the Jefferson Poplar Farm in Clatskanie, Oregon?

12 A. Yes.

13 Q. In fact, a week later, after that, at the book club  
14 meeting in Sisters, they talked about it; is that correct?

15 A. Yes.

16 Q. So Stan Meyerhoff, who you came to know, was involved in  
17 that particular incident in Clatskanie, right? You know that,  
18 right?

19 A. Yes.

20 Q. And you know that you saw him and Connor putting the  
21 devices together in Olympia, right?

22 A. No, you misstated what I said. I never saw them putting  
23 the devices together.

24 Q. You didn't tell the authorities that Stan and Connor were  
25 rushing to finish the devices?

1   **A.** We've been over this. Those are two different statements,  
2 whether I saw them or whether I understood something to be  
3 true. I am sorry to be really particular and qualified, but I  
4 feel like it's necessary.

5   **Q.** Give me a moment, please, and I will show you a document  
6 that may refresh your recollection.

7       I show you a page marked as Bates No. -- I am sorry. This  
8 is a page from a document marked A-115. It's got a Bates  
9 number 014093.

10           THE CLERK: A-192.

11           (Exhibit A-192 marked for identification.)

12 BY MR. BLOOM:

13   **Q.** I would ask you to take a look at that document. I think  
14 the clerk has pointed to a place that I would like you to  
15 look. You can look at the whole thing if you want.

16       Does that refresh your recollection as to whether or not  
17 you told the authorities on February 21 that Stan and Connor  
18 were rushing to finish the devices?

19   **A.** I am sorry, could you repeat the question?

20   **Q.** Yes. Does it refresh your recollection, looking at that  
21 document, which is some handwritten notes? Have you told the  
22 authorities on February 21, the first day that you were  
23 talking to them, that Stan and Connor were rushing to finish  
24 the devices?

25   **A.** I believe that could be accurate, that I told them that.

1       Just for larger reference, having been a journalist and a  
2 debater, I am very particular about notes. I take very good  
3 notes. I think note-taking is an appreciated skill that not  
4 many people are really excellent at.

5       This other exhibit you showed me of the David Carr e-mail,  
6 I notice in here his e-mail address is incorrect. I wouldn't  
7 take this as the truth about what David Carr said in that  
8 interview, even though this woman understood it to be and  
9 wrote it down that way.

10       I would expect there to be differences in what David  
11 recollected and what I believed about what David recollected  
12 about the conversations we had.

13       Likewise with the FBI agents, I don't think that I can  
14 speak and be perfectly clear at all times. So if they wrote  
15 down something that was inconsistent with what I remember, it  
16 would not be because I remember it inconsistently, but maybe  
17 because they didn't understand me.

18 **Q.** So Agent Halla got it wrong?

19 **A.** No. In this case I don't think he got it wrong. I may  
20 have said that.

21 **Q.** What would have been the basis of your knowledge that Stan  
22 and Connor were rushing to finish the devices?

23 **A.** I am not sure what exactly I saw or heard that made me  
24 think that. It was an impression that I had.

25 **Q.** Well, is it fair to say that Stan had a three- or four- or

1 five-hour drive from Olympia to get to place those devices at  
2 the Poplar Farm?

3 A. I don't know where Clatskanie, Oregon, is for sure.

4 Q. So can you tell us about what time of day you made that  
5 observation about Stan and Connor rushing to finish the  
6 devices?

7 A. During the interview or --

8 Q. No, today. Can you picture about what time of day it was  
9 that you made that observation?

10 A. I have been consistent that I don't remember seeing  
11 something that led me to believe that.

12 I may have seen something. I may have heard something, I  
13 do not know.

14 Q. Whatever it is you saw or heard, you cannot now identify  
15 what time that would have been?

16 A. No.

17 Q. Okay. Now, once the device or devices were finished, was  
18 there any gasoline in the area of the clean room?

19 A. I don't know.

20 Q. Well, do you have any idea at what point gasoline was  
21 either purchased or stolen or taken or siphoned from  
22 somewhere?

23 A. No. I don't remember seeing gasoline in the clean room  
24 ever.

25 Q. So do you have any idea when the gasoline, or the

1 combustible material, was introduced into this device or  
2 connected to the package or put in the car or anything? Do  
3 you remember anything about gasoline? And I don't mean  
4 gasoline to make the car run, I mean gasoline that was used as  
5 the accelerant in these inflammatory devices.

6 **A.** I remember a conversation about how much gas to use. I  
7 believe that Connor acquired the gas. I don't know.

8 **Q.** What makes you believe that?

9 **A.** I don't know.

10 **Q.** Just a guess?

11 **A.** I think that was my understanding at the time.

12 **Q.** From where did you get that understanding?

13 **A.** I am sorry, sir, I can't say.

14 **Q.** Do you know when he got the gas?

15 **A.** No, sir.

16 **Q.** Do you know from where he got the gas?

17 **A.** No.

18 **Q.** Did you drive in a vehicle from Olympia to Seattle?

19 **A.** Yes.

20 **Q.** Was there gas? I don't mean in the gas tank. Was there  
21 gas accelerant in the vehicle when you drove up?

22 **A.** I don't know. I don't have a particular memory of the  
23 vehicle or the drive.

24 **Q.** Well, did it smell like gasoline?

25 **A.** I don't have a particular memory at all, including the

1 smell of gas.

2 Q. Do you remember how long it took to get from Olympia to  
3 Seattle?

4 A. I don't know.

5 Q. Was it ten minutes or half an hour or an hour?

6 A. I don't know. I have done the drive a large number of  
7 times. I think it's like an hour or something.

8 Q. Do you actually remember that day -- it was apparently a  
9 Sunday, maybe the end of the afternoon or something like that.  
10 Do you remember whether there was a lot of traffic? Sometimes  
11 there's a lot of traffic here in the Tacoma area.

12 A. The only particular memory I have of being in a car from  
13 Seattle to Olympia is the time I drove with Jen Kolar. It may  
14 have been to Seattle that night; it may not have been. I  
15 don't know.

16 And it was evening and there was traffic, and we may have  
17 talked about this issue of does Briana hate me because she  
18 thinks I slept with her boyfriend. That's why I would  
19 remember.

20 Q. So this is a conversation with Kolar; is that correct?

21 A. Yes, if I'm remembering correctly.

22 Q. Well, it wouldn't have been this particular date, the  
23 20th, because you were on your way to meet Kolar, according to  
24 your testimony.

25 A. No, I am not sure. I think I testified I might have been

1 with Jennifer Kolar when I drove to Seattle.

2 Q. I understood that you met Kolar at a restaurant.

3 A. It definitely was at a restaurant with Jennifer Kolar.

4 Q. You don't remember that that's where you met her that  
5 night? I don't mean met her for the first time; I mean  
6 that's where whoever came from Olympia met Kolar in Seattle.

7 A. When you asked me that previously, I told you they did  
8 come to be at a restaurant with Jennifer Kolar.

9 Q. She could have been in the car with you from Olympia to  
10 Seattle?

11 A. That's possible. I am not sure.

12 Q. Or maybe you picked her up at Sea-Tac or somewhere? I  
13 don't mean the prison, the jail; I mean the airport.

14 A. I am pretty sure that didn't happen, but I don't know.

15 Q. Before you got to the restaurant, did you stop somewhere  
16 else?

17 A. I don't have any memory for sure of that drive.

18 Q. Do you remember going to any dumpsters at any time that  
19 night?

20 A. No.

21 I'm sorry, I remember walking past the dumpsters on our  
22 way to the site.

23 Q. But before that, was there a time when you remembered  
24 anybody dropping off the devices and gasoline at the  
25 dumpsters?



1   **A.** My recollection is that Justin placed the devices there  
2   sometime earlier in the evening.

3   **Q.** When you say earlier in the evening, how did he do that?  
4   Was he with you?

5   **A.** I wasn't with him when that happened.

6   **Q.** So you are in the car, you say, from Olympia to Seattle,  
7   in the car, and you get to Seattle, right? Where do you go in  
8   Seattle?

9   **A.** I ended up at that bar.

10   **Q.** Where did you first go in Seattle?

11   **A.** I don't know.

12   **Q.** That's where you ended up. Was there something before the  
13   bar?

14   **A.** I don't know.

15   **Q.** Specifically, was there a stop at anybody's home to pick  
16   up anybody?

17   **A.** It's possible. But I want to add one little bit that I  
18   remember, is that there was this role, this thing of dropping  
19   off a car under an overpass, I think. I am not sure where  
20   that fits in my complete recollection of things.

21   **Q.** Was that that night?

22   **A.** I think so, yes.

23   **Q.** Or was it in the afternoon? When was it?

24   **A.** Well, I don't remember it that night. I remember getting  
25   in the car really the next morning. I am not sure. I am

- 1   sorry.
- 2   Q.   Did it have to do with this particular weekend?
- 3   A.   I think it did.
- 4   Q.   What kind of car?
- 5   A.   I don't know.
- 6   Q.   Whose car?
- 7   A.   I don't know. I just remember an overpass and the car
- 8   being dropped off. Maybe it had to do with what time we drove
- 9   back the next morning. I am not sure.
- 10  Q.   Was it Jennifer Kolar's car?
- 11  A.   Possibly; I don't know.
- 12  Q.   So do you remember -- you are saying you don't remember
- 13  the very first stop that you made in Seattle?
- 14  A.   The first place I remember being in Seattle is at that
- 15  bar.
- 16  Q.   At that bar, and at that bar there were five of you?
- 17  A.   Yes.
- 18  Q.   What time did you get to that bar?
- 19  A.   I don't know. Early evening.
- 20  Q.   You say early evening. What do you mean, 6:30, 7:00?
- 21  A.   I don't know what time I got to the bar.
- 22  Q.   Just think.
- 23  A.   I am sorry, sir, I can't say with any specificity. It was
- 24  afternoon.
- 25  Q.   What makes you think it was afternoon?

1   **A.** Well, the bar was open and we ate dinner-ish type food.

2   **Q.** That could have been anywhere from 4:30 to 9:00, in that  
3 range?

4   **A.** That's correct.

5   **Q.** This is a meeting, according to you, of the five people  
6 who were going out to commit an arson, to burn down a building  
7 at the University of Washington. Am I correct about that?

8   **A.** Yeah. It was a meet-up, more than a meeting, to discuss  
9 things that were -- from the site we were going first to burn  
10 the building.

11   **Q.** My question is, are you saying that you don't remember  
12 whether or not -- or you don't remember dropping off the  
13 devices at a dumpster area yourself -- you, yourself -- with  
14 anyone prior to the restaurant?

15   **A.** That's correct, I don't think I was part of that.

16   **Q.** So did Justin jump out of the car and -- what happened? I  
17 don't quite get it. There were five of you in the car, and  
18 you're saying Justin dropped off the devices at the dumpster.  
19 How did he do that if you were all together?

20   **A.** The FBI or the U.S. Attorney's Office may have believed  
21 that there were five of us in the car. I have no clear  
22 recollection of getting to Seattle and being in a particular  
23 car with any number of people.

24   **Q.** You just remember leaving Olympia and arriving; the next  
25 you know, it was the restaurant?

1   **A.** Sir, I don't remember leaving Olympia. I am very sorry.  
2   The first time I ever gave an interview was a number of years  
3   later. The things I can remember, I don't remember in  
4   continuous sequence.

5       I have done my best to remember what I can. If I were to  
6   have new memories, it would probably involve having to talk  
7   with other people who were there.

8   **Q.** In other words, somebody could refresh your recollection,  
9   you are saying, a conversation with someone might refresh your  
10   recollection.

11       I am not sure, is that what you are saying?

12   **A.** If I could talk with someone, that would probably refresh  
13   my recollection.

14   **Q.** Who would be that someone?

15   **A.** Well, Briana, Jen or Justin could add details to what  
16   happened.

17   **Q.** Briana, who said she wasn't there at all, you think she  
18   could refresh your recollection?

19   **A.** Sir, I believe that Briana was there. I am certain Briana  
20   was there.

21   **Q.** Because that's what you said on February 21st, and if you  
22   don't say that, you go to prison for the rest of your life?

23   **A.** I think if I genuinely had misunderstood or misremembered,  
24   I wouldn't go to prison for life. I haven't misunderstood or  
25   misremembered. I am very clear that Briana Waters was at the

1 arson at the University of Washington Horticulture Center,  
2 without a doubt.

3 Q. You can't even remember what time you left Olympia?

4 A. That's true, I do not have a continuous memory of the  
5 sequence of events.

6 Q. Well, it's important, is it not, for your purposes to say  
7 your own self -- you have to say -- you have to say -- that  
8 Briana Waters was at that arson?

9 You have to say it; otherwise, it's 35 years in prison for  
10 you, and you won't get to see your parents out on the street  
11 until then?

12 A. I think if I had genuinely had a bad memory, that  
13 Mr. Bartlett and Mr. Friedman have no interest in convicting  
14 someone who was not there, and if I said to them that was not  
15 the right person, I don't think that they would punish me for  
16 that. But I don't know. I mean, they very well could punish  
17 me for that, but I have no doubt about my memory on the point  
18 of whether or not Briana was there.

19 Q. You say you don't think they have an interest in  
20 convicting somebody who is innocent, is that what you are  
21 saying?

22 A. That's right. I don't believe that they want to convict  
23 an innocent person.

24 Q. Have you been reading our pleadings online?

25 A. I have read your pleadings.

1 Q. Without getting into the specifics, you know that we have  
2 made certain claims, just yes or no?

3 A. Yes. I think there's this idea that this is a political  
4 prosecution. I have never gotten the sense at all, which has  
5 actually made it quite a bit easier for me to deal with the  
6 United States Attorney's Office. They never questioned me  
7 about people who were not involved in noncriminal activities  
8 and other political activities.

9 Q. Have you read our pleadings with regard to factual issues  
10 that have nothing to do with political considerations? Just  
11 yes or no?

12 A. I have read your pleadings.

13 Q. And you know that we've made certain claims about certain  
14 things that we believe took place; correct?

15 A. Yes.

16 Q. And you know that those things do not have to do with any  
17 political anything, they have to do with particular facts that  
18 we allege, period? Just yes or no, please.

19 A. I am sorry, I'm not sure of the question. You allege  
20 things in your brief, of course.

21 Q. Yes. And addressing the fact that -- addressing the fact  
22 that you say they wouldn't want to convict somebody who's  
23 innocent, you know that our pleadings address certain factual  
24 issues that relate to that kind of claim?

25 I am being very careful with my words here because I

1 really don't want you to -- there's been a ruling by the Court  
2 that we can't go into certain things. So I am trying to keep  
3 it narrow in response to your statement that they wouldn't  
4 convince a person who's innocent.

5 **A.** I don't think I have read in your pleadings that the  
6 prosecutors want to convict an innocent person.

7 **Q.** Have you read in our pleadings claims that we make about  
8 what certain FBI agents have done? Just yes or no.

9 **A.** I have read your pleadings.

10 **Q.** Have you read them with regard to claims that we make with  
11 regard to what certain FBI agents have done?

12 **A.** If there's been a ruling about introducing those, I would  
13 rather not speak about them.

14 **Q.** Well, if there's an objection and the Judge says you  
15 can't, then you can't, but for now --

16 THE COURT: Why don't we move on to another line of  
17 questioning.

18 BY MR. BLOOM: I am sorry?

19 THE COURT: Another line of questioning.

20 MR. BLOOM: If that's the answer, that's correct. I  
21 understand and I respect that.

22 BY MR. BLOOM:

23 **Q.** Now, did there come a time when you were right there at  
24 the Center for Urban Horticulture and Avalon was in Toby  
25 Bradshaw's office, were you just a few feet away from him?

1 A. Yes.

2 Q. And the window had been broken?

3 A. Yes.

4 Q. Was it a large window? Small window? How did that work?  
5 What do you remember about that?

6 A. It was a big window.

7 Q. And did Avalon hand out any documents to you?

8 A. He did.

9 Q. What kinds of documents were they?

10 A. Excuse me, he handed me materials from Professor  
11 Bradshaw's office.

12 Q. Materials, documents of some kind; is that correct?

13 A. Yes.

14 Q. Am I correct that you testified on direct that there were  
15 no documents?

16 A. I don't know.

17 Q. About renting a car, did you tell the authorities that  
18 Briana Waters had an older woman, an aunt, rent a car?

19 A. Yes.

20 Q. You testified the other day that your involvement in the  
21 WTO was in 1999, the Seattle events that took place in the WTO  
22 conference?

23 A. Yes, it was in 1999.

24 Q. You testified that, in fact, what you were involved in was  
25 essentially making sleeping arrangements for people; is that



1 correct?

2 A. No, I said quite a bit more than that.

3 Q. I am sorry?

4 A. I said quite a bit more than that.

5 Q. What else were you involved in?

6 A. I was involved in sleeping arrangements, outreach --

7 Q. I am sorry?

8 A. Sleeping arrangements, outreach, research on the companies  
9 they were sponsoring, ministerial. There was a lot.

10 Q. Were you involved in throwing bricks?

11 A. I never broke any windows. I did spray paint.

12 Q. Do you know who Tim Lewis is?

13 A. I know who Tim Lewis is.

14 Q. He's does films; is that correct?

15 A. Yes, he does.

16 Q. Do you remember Tim Lewis -- you were asking Tim Lewis:  
17 Do me a favor, Tim. Keep an eye on my bricks.

18 Did you tell him that?

19 A. I don't remember -- no, I have no idea what you are  
20 talking about.

21 Q. You had collected some bricks that were going to be thrown  
22 through windows; is that not correct?

23 A. No, sir, I am not sure what you are talking about.

24 Q. You don't remember running through the streets with 200  
25 people in black clothing?

1   **A.** I do remember being in downtown Seattle with those people,  
2   yes.

3   **Q.** Do you remember the exhilaration that you felt having 200  
4   people, everybody watching everybody's back and the police  
5   couldn't do anything about it?

6   **A.** It sounds to me like you are quoting from a video that Tim  
7   Lewis made.

8   **Q.** Am I quoting who?

9   **A.** You would be quoting me. Tim Lewis put those comments in  
10   there. I was only in his video very reluctantly. I was  
11   careful, obviously, to not implicate myself in the criminal  
12   activity. I at one point spoke very specifically about that  
13   sort of thing, running with 200 people. I was referring to  
14   something that happened in England --

15   **Q.** That what?

16   **A.** -- happened in England, this protest that I went to that  
17   was called off and nothing ever came of it, and I clarified  
18   that on the unedited version of the video that he made, but he  
19   did not put that clarification in the final version of his  
20   video, and it's led to a falling out between him and I.

21   **Q.** So that description that you were giving had nothing to do  
22   with what you were doing in Seattle; it had to do with what  
23   other people did in another country?

24   **A.** That's accurate, but it's fair to say that I had the same  
25   experience in Seattle. I was just very careful not to

1 implicate myself on video.

2 Q. I see. So that was exhilarating for you, as it was when  
3 you expressed the week after this arson, the same kind of  
4 exhilaration you expressed at the book club meeting in  
5 Sisters, Oregon?

6 A. Yes, sir.

7 Q. I do have a couple other questions.

8 Was there an event that you participated in where --  
9 excuse me one second -- did you participate in some events or  
10 protests in either an Oakridge or Detroit station?

11 A. The ranger station?

12 Q. The ranger station, yes.

13 A. Yes.

14 Q. Is it correct that you participated in spreading manure  
15 around a site where you had put glue into some locks?

16 A. Other people glued the locks, and I was involved in  
17 dumping compost at the ranger station office.

18 Q. And that would be -- you knew very well that the people  
19 who would be cleaning that up would be working people?

20 A. The thoughtless radical that I was, I never gave that

21 Q. I am sorry?

22 A. I never gave a thought to who would clean it up.

23 Q. It's about you. The world is about you, right?

24 A. The feeling that your moral choices are more important  
25 than the scientific process and administrative legal remedies

1 is extremely hubristic.

2 Q. I am sorry. Could you say that another way? I didn't  
3 graduate cum laude.

4 Could you say that in some way that I can understand?

5 A. Sure. I am sorry if I wasn't clear.

6 When you are taking action like that where you have  
7 decided that your judgment is more important than the judgment  
8 of the law and the judgment of administrative regulatory  
9 systems, that is a very arrant thing to do.

10 Q. What I am doing?

11 A. No. I am sorry, what I did.

12 Q. I see. So that was -- basically you did not consider the  
13 consequences to the people who had to clean up after you?

14 A. That's correct, sir.

15 Q. One last thing. The events, the interaction between  
16 yourself and other people in the environmental, people at all  
17 levels -- let me go back a second.

18 Avalon was involved in all kinds of levels of  
19 environmental work; is that correct?

20 A. Can I just say -- I just want to point out about that  
21 question. In Oakridge, that was 1996 and I think you can kind  
22 of see the progression of my increasingly-radical activities.

23 First, it was protests at the federal building, dumping  
24 compost, digging blockades on a Forest Service road, to  
25 eventually burning a building. It was a very long

1 progression. I was a radical. I admit it.

2 Q. And now you are a Government informant?

3 A. I am many things, and that would probably be one of the  
4 last things on my list.

5 Q. Avalon was a person who had an entire range of  
6 environmental activities, from arsons to organizing and  
7 facilitating meetings, above-board, legal meetings; is that  
8 correct?

9 A. I can't really speak to Avalon's involvement very much  
10 because he was very secretive. I think I could say that I saw  
11 a development in his activism, too, from legal to focused  
12 obsessively on the clandestine, towards the period of the  
13 University of Washington arson. But I believe he may have  
14 been involved in clandestine activities at the same time that  
15 he was also doing above-ground work earlier when I knew him  
16 and I just didn't know that.

17 Q. There was a range of people here in the Northwest who were  
18 involved in a range of activities from totally legal to very  
19 illegal; is that correct?

20 A. Yes.

21 Q. And there was an interchange amongst the people, people in  
22 Olympia, people in Eugene, people in Seattle, and other places  
23 as well; is that correct?

24 A. Yes.

25 Q. Including Tacoma?

1   **A.** I don't remember meeting any activists from Tacoma ever.

2   **Q.** Do you remember a big discussion at the ELAW conferences  
3 about the documentary "Watch" that Briana produced and  
4 directed and wrote, where she documented a coalition of people  
5 working together, regular people, totally law-abiding people  
6 and tree huggers.

7       Do you remember a lot of discussion and a lot of buzz, as  
8 it is said, about that kind of activity?

9   **A.** No, I am sorry, I don't remember the documentary "Watch"  
10 except for the way it was involved in the weekend of the  
11 arson.

12   **Q.** It was involved in the weekend of arson?

13   **A.** My understanding is that Briana had made this documentary,  
14 and we were going to do an arson.

15   **Q.** I am sorry. One had to do with the other? It was going  
16 to be shown --

17   **A.** No, there's no connection. I am sorry if I implied that.  
18 I meant, the only way that that really sticks out in my  
19 memory, that video "Watch", is because it was associated in my  
20 mind with that weekend when I came to meet Briana.

21   **Q.** Briana Waters, at the same ELAW conference where you  
22 talked about not reaching out to white people, Kim Marks was  
23 in that same panel, and she talked about the project at  
24 "Watch" and the film that was made.

25       She was sitting in the same dais as you are, and she was

1 talking about working with people, and you are talking about  
2 nonviolence has no place, we have to re-think nonviolence.  
3 That shows the kind of range that happened at, for example,  
4 the ELAW conference, right?

5 **A.** If -- I think you mischaracterized my remarks. I think I  
6 testified that I didn't say we should avoid working with  
7 working class people.

8 **Q.** White people, working class white people is what you said.

9 **A.** No, I told you earlier when you asked me that that I did  
10 not say that. But again, being the arrogant person that I  
11 was, I don't remember what other people said on that panel.

12 **Q.** One more thing -- and then one more request of the  
13 Court -- you came to know -- you've now come to know that  
14 Briana was involved at Evergreen in an organization known as  
15 Evergreen Animal Rights Network.

16 What they were involved in is bringing speakers to campus  
17 and having bake sales. Have you come to know that?

18 **A.** You just told me. That's the only way I know that.

19 **MR. BLOOM:** One other matter, Judge. Given the  
20 witness's answers with regard to what she had to say at the  
21 ELAW conference, we do have a tape that we would like to play.  
22 It would be logistically difficult to play it now, but we  
23 could. I think they --

24 **THE COURT:** Without going into it, let's wait. Share  
25 it with everybody. I will look at it and decide what to do

1 about it.

2 MR. BLOOM: That will be fine. I have no further  
3 questions. If I could get back that document.

4 MR. FRIEDMAN: I have some very brief redirect.

5 Your Honor, may the witness be handed Exhibit 612?

6 I am not going to offer this into evidence.

7 REDIRECT EXAMINATION

8 BY MR. FRIEDMAN:

9 Q. If you could just look at it, basically keep it on the  
10 table in front of you, that would be great.

11 Can you just describe in general terms what Exhibit 612  
12 is?

13 A. It's some radical literature, I think.

14 Q. Is it one brochure or pamphlet?

15 A. It says it's the "Newsletter of the North American Earth  
16 Liberation Prisoner" --

17 THE COURT: Elevate your voice just a little bit.

18 THE WITNESS: Speak up?

19 THE COURT: Yes.

20 A. It says it's the "Newsletter of the North American Earth  
21 Liberation Prisoner Support Network," and there appears to be  
22 two copies in here.

23 BY MR. FRIEDMAN:

24 Q. That's just because it's an exhibit, it's really one  
25 document, one item?



1 A. It looks to be two copies of one item.

2 Q. Is there a date on that item?

3 A. Spring 2002.

4 Q. Then would you look at the back of it for a moment.  
5 Do you see the handwriting there?

6 A. Yes.

7 Q. Can you just tell us in general terms what you see?

8 A. It's contact information, some websites and some phone  
9 numbers.

10 Q. Is any of that -- can you tell us for whom that contact  
11 information is? Are you able to tell us that?

12 A. It has a number for Briana, a number and an e-mail, and a  
13 phone number for me, and something that's indicated as a  
14 voicemail for India.

15 MR. BLOOM: Excuse me, I am going to object to this  
16 unless they can explain how somebody's handwriting on a  
17 pamphlet got to be there and what significance it has.

18 MR. FRIEDMAN: I just want to ask her if it's her  
19 handwriting and then we will be done.

20 THE COURT: All right.

21 BY MR. FRIEDMAN:

22 Q. Is any of the handwriting for that contact information --  
23 is any of that your handwriting?

24 A. I don't think so.

25 Q. Were you together -- you are one of the people listed

1 there; is that correct?

2 **A.** Yes.

3 **Q.** Were you together with any of those other people in the  
4 Spring of 2002 when that pamphlet was written -- is dated?

5 **A.** No, I don't think so.

6 **MR. FRIEDMAN:** I have no further questions.

7 The Government calls Megan Roop.

8 **THE COURT:** Let me have you come forward and be  
9 sworn.

10 Step forward and raise your right hand, please.

11 **MEGAN ROOP,** called as a witness, duly sworn.

12 **THE COURT:** Just come around and take the witness  
13 chair.

14 **DIRECT EXAMINATION**

15 **BY MR. FRIEDMAN:**

16 **Q.** Good afternoon, Ms. Roop. Can you tell us your whole name  
17 and spell your last name for the record.

18 **A.** Megan Marie Roop, and my last name is spelled R-O-O-P.

19 **Q.** Where do you work?

20 **A.** Avis Budget.

21 **Q.** Are you in a particular unit or group?

22 **A.** Yes, the Special Investigations Group, which is located  
23 inside the insurance department.

24 **Q.** Where in the country? Where are you located?

25 **A.** Orlando, Florida.

1 Q. What does the Special Investigations Unit do?

2 A. We typically handle insurance fraud claims coming out of  
3 rental car accidents.

4 Q. What's your job in the Special Investigations Unit?

5 A. I am the administrative assistant, assisting the special  
6 investigator.

7 Q. What does that mean that you do?

8 A. I generally perform all the research on all our claims  
9 that are referred to our department and handle general  
10 clerical duties.

11 Q. Do you know Special Agent Ted Halla of the FBI?

12 A. Yes, from speaking on the phone with him.

13 Q. In November of 2006, did he give you a request for certain  
14 information?

15 A. Yes, he did.

16 Q. In general terms, what was he looking for?

17 A. He was looking for rental agreements pertaining to a list  
18 of names.

19 Q. Do you recall roughly how many names?

20 A. I would say about 20.

21 Q. Was there a particular timeframe for which he was looking?

22 A. May 21, 2001.

23 Q. Now, was this the first request Agent Halla had made to  
24 you?

25 A. No.

1 Q. Roughly, when is the first time he requested information  
2 from Avis?

3 A. Around March 21, 2006.

4 Q. Roughly eight months before?

5 A. Yes.

6 Q. Over the course of that eight months, have you had  
7 continuous contact with Agent Halla?

8 A. Yes.

9 Q. In general terms, what was nature of the contact? What  
10 was going on?

11 A. Searching for any cars that may have been returned with  
12 damage or rentals coming out of a specific location during  
13 specific times. It was very generalized information as to  
14 what I was looking for.

15 Q. When you had this request, the one that came in November  
16 2006, did you perform a search?

17 A. Yes, I did.

18 Q. Did you find some records that you provided to Agent  
19 Halla?

20 A. Yes, I did.

21 Q. Would you take a look at a document that's marked 771.  
22 Tell us if you recognize that.

23 A. Yes, it's a fax from me.

24 Q. If we could use the document camera for a moment.  
25 So what is Exhibit 771?

1   **A.**   This is a fax from me to Agent Halla.

2   **Q.**   Is it information about a rental that you found?

3   **A.**   Yes, it is.

4   **Q.**   Is that part of Avis Budget's records?

5   **A.**   Yes.

6   **Q.**   Are those records the company keeps in its normal course  
7 of business?

8   **A.**   Yes.

9               MR. FRIEDMAN:   The Government offers 771.

10              MR. FOX:   No objection.

11              THE COURT:   Admitted.

12                               (Exhibit No. 771 admitted.)

13 BY MR. FRIEDMAN:

14   **Q.**   I am going to put a document on the overhead projector,  
15 and if you can answer questions based on this.

16       Can you tell us in general terms, what it is that we are  
17 looking at?

18   **A.**   This is a printout from the system I use in order to  
19 identify old rentals.

20   **Q.**   It says rental detail screen.   What is this?

21   **A.**   It's just the details of the rental agreement, like the  
22 name, the address associated with the name, the credit card  
23 number used, the mileage in and out of the car, the station  
24 the car was rented out of, telephone, zip code, the amount  
25 charged for the rental, any insurances taken out like

1 insurance coverages taken out, and then the total we charged  
2 for it.

3 Q. So this document -- entire document relates to one car  
4 rental?

5 A. Yes.

6 Q. Would you walk me through it. Up top is something --

7 A. That's the name of our renter.

8 Q. In this case, what's the name of the renter?

9 A. Kara Denise Larson.

10 Q. Below that, do you see an address where this person lived?

11 A. Yes.

12 Q. Can you read that for the record?

13 A. 2411 Capitol Way Southeast, Olympia, Washington 98501.

14 Q. Then there's something that says "drive license". What is  
15 that?

16 A. That's the driver's license of the individual who rented  
17 the car.

18 Q. When you say that's the driver's license, what do you mean  
19 by that?

20 A. The driver's license issued by the Department of Motor  
21 Vehicles in the state they reside in.

22 Q. So that's the number that identifies the driver's license?

23 A. Yes.

24 Q. Moving down to "credit card".

25 A. Do you want me to read the credit card number?

1 Q. No, but that's the credit card number to which the rental  
2 was charged?

3 A. Yes. The "DS" in front of it generally means a Discover  
4 card was used, and the number behind it is the number taken  
5 off the credit card for renting at the time of rental.

6 Q. Then moving further down we have an open date, open DT.

7 A. That's the open date of the rental, the day they actually  
8 walked in and took possession of the car.

9 Q. In this case, what is that date?

10 A. May 19, 2001.

11 Q. Can you tell the time the car went out?

12 A. Yes, 12:31 p.m.

13 Q. On that date?

14 A. Yes.

15 Q. Can you tell the location from which it was rented?

16 A. Yes, that's our Olympia, Washington office, OLMDT.

17 Q. So that's the open station?

18 A. Yes.

19 Q. And where and when was the car returned?

20 A. The car was returned to the same location on May 22nd,  
21 2001 at 6:33 a.m.

22 Q. What does that 6:33 a.m. mean? How much does it tell you  
23 and what does it not tell you?

24 A. The only information that's not listed on this particular  
25 RA screen would be the unit number, the VIN number of the car

1 that they rented.

2 Q. Do you know this location yourself?

3 A. I have never been to it.

4 Q. So if it had an after hours night drop, does this tell you  
5 the time the car is logged in or dropped there?

6 A. That's the time the car is logged in.

7 Q. So it's actually processed back in by the people?

8 A. Yes.

9 Q. Can you tell us, what was the total charge of the rental?

10 A. \$187.87.

11 Q. I am going to page through for a moment. The second page  
12 is basically the same thing?

13 A. Yes.

14 Q. When we get to the third page, can you tell us what this  
15 is?

16 A. This is a different printout from the system showing a  
17 little bit more detail on the rental agreement, unfortunately  
18 omitting other details off of the rental agreement.

19 Q. What's this number on the left?

20 A. The one that's circled?

21 Q. Yes.

22 A. That's the rental agreement number.

23 Q. Is that the same rental agreement -- the same one we just  
24 looked --

25 A. Yes.



1 Q. Still on page 3, do you see the name of the renter here  
2 again?

3 A. Yes, Kara Denise Larson.

4 Q. Switching to the eighth and last page of this exhibit,  
5 there is something that says VIN on here.

6 Can you tell us what that is?

7 A. A VIN is a vehicle identification number.

8 Q. Generally, in more general terms, what's a vehicle  
9 identification number?

10 A. It's the number assigned to a vehicle in the United States  
11 of America, identifying the maker of the car, the model of the  
12 car, the color of the car, the plant the car was made out of,  
13 the engine size of the car.

14 Q. Does every vehicle have a different VIN?

15 A. Yes.

16 Q. So this number here would uniquely identify --

17 A. It's unique to the vehicle.

18 Q. Could you read that, for the record.

19 A. 4T1BG22K21U816051.

20 Q. Turning back to the first page, we had talked already  
21 about the time the car was taken out and returned. There's  
22 another line odometer out, QTY, what does that mean?

23 A. That's the mileage that was on the car when it left the  
24 lot.

25 Q. In this case, what was that mileage?

1 A. 5,673.

2 Q. Right under there, we have an odometer reading QTY?

3 A. That was the mileage on the odometer when it was returned  
4 to the location.

5 Q. What was that mileage in this case?

6 A. 5,910.

7 Q. I hate to make you do subtraction on the stand. Can you  
8 tell, roughly how many miles did this car drive?

9 A. About 227 miles.

10 Q. 237?

11 A. Yes, I think.

12 MR. FRIEDMAN: Thank you very much, Ms. Roop.

13 CROSS-EXAMINATION

14 BY MR. FOX:

15 Q. I am Neil Fox, one of the attorneys for Briana Waters.

16 A. Hi.

17 Q. Very quickly, let me just put this back up on the screen.  
18 Just very quickly, on this document that you just testified  
19 about, there's a notation for additional driver; is that  
20 correct?

21 A. Yes.

22 Q. The "N" underneath additional driver means what?

23 A. I am not exactly sure, but I would assume it would stand  
24 for "no additional driver".

25 Q. At least no one that -- no one that signed up that they

1 were going to drive?

2 **A.** Exactly.

3 **Q.** Then there's a section that says "rental remarks text" at  
4 the very bottom?

5 **A.** Generally, we would use that column if the vehicle was  
6 returned with damage. It looks like there was nothing unusual  
7 about the car.

8 **Q.** So it says no remarks?

9 **A.** Yes.

10 **Q.** And for you, in the course of your business, that would  
11 mean no damage?

12 **A.** No damage or nothing unusual.

13 **Q.** Then in terms of the odometer, there's no special  
14 mechanism that Budget has to keep track of mileage of rental  
15 cars, it really depends on the person checking in to record  
16 the mileage accurately in both instances?

17 **A.** Yes.

18 **Q.** So it depends on the first person writing down the proper  
19 mileage, right?

20 **A.** Yes.

21 **Q.** And then the second person writing down the mileage,  
22 right?

23 **A.** Yes.

24 **Q.** And sometimes, is it not correct that sometimes people  
25 make mistakes?

1   **A.**   I think so.

2               MR. FOX:   Thank you very much.   I have no further  
3   questions.

4               MR. FRIEDMAN:   We have no further questions.

5               THE COURT:   You may step down.

6               All right, I think we are going to recess the matter for  
7   today and have you go home.

8               Well, the good thing about it, it's a three-day weekend.  
9   Monday is a federal holiday, so we won't have you back here  
10   until Tuesday.

11              As always, you are not to discuss the case.   You are not  
12   to research anything, watch TV about it, get on the Internet,  
13   doing any of these things.   Stay away from all those kind of  
14   things.   Everything you need to decide this case will be here  
15   in this courtroom, and that's what I want to hold you to.

16              Have a good three-day weekend.   I will see you right there  
17   9:00 on Tuesday.

18              (Jury not present.)

19              THE COURT:   All right, you may be seated.

20              I guess the only thing, there's some discussion about a  
21   tape.   I will hear what you have to say about that.   Is it  
22   something I should see?   I don't know how I can tell what's in  
23   it without seeing it.

24              MR. FOX:   Your Honor, the DVD, I believe the disks  
25   are inside the room.

1 THE COURT: How long is this?

2 MR. FOX: Well, Ms. Phillabaum's segment is probably  
3 20 minutes -- 20, 30 minutes. The prior section dealing with  
4 the Watch Mountain campaign is probably about the equivalent  
5 amount.

6 THE COURT: What am I supposed to do with it?

7 MR. FOX: Maybe Mr. Bloom and I can discuss this.

8 MR. BLOOM: My recollection is that the part we want  
9 to show is the Phillabaum part -- we could show the other as  
10 well -- is less than 30 minutes; it's more like 15 to 18  
11 minutes.

12 THE COURT: It sounds like that will be your part of  
13 the evidence; is that correct?

14 MR. BLOOM: Yes.

15 THE COURT: And you want me to look at that and see  
16 if there's some editing that needs to be done in terms of what  
17 the jury will hear?

18 MR. BLOOM: Yes, we'd like to offer it. And we'd  
19 also like to offer -- there is another segment, it's a panel  
20 of four people; two of whom are not relevant to this  
21 discussion and two of whom are. One is Ms. Phillabaum herself  
22 giving a presentation, and she denies saying certain things  
23 that are very clearly on the DVD that you will see.

24 The other segment is a woman named Kim Marks who gave a  
25 presentation about the Watch Mountain project and was referred

1 to in the cross-examination.

2 THE COURT: Now, one you want to show that something  
3 that she said on the tape, that she said she didn't say here,  
4 that's one item you want me to look for?

5 MR. BLOOM: Right.

6 THE COURT: Then the Watch Mountain, you want to  
7 present that in terms of what you want to present in your  
8 case-in-chief; is that right?

9 MR. BLOOM: I guess that's right. That's a good way  
10 to analyze it.

11 THE COURT: What else am I to look for? That's it?

12 MR. BLOOM: I think that's it, yes.

13 MR. FRIEDMAN: Your Honor, they are trying to impeach  
14 Ms. Philabaum on a collateral matter with extrinsic evidence.  
15 There's nothing in there that's admissible to impeach here.

16 If they want to offer the Watch Mountain portion in their  
17 case, that is a decision to be made at that time, but nothing  
18 to do with Ms. Philabaum.

19 The portion to do with Ms. Philabaum, it doesn't matter  
20 what it is she admits. It doesn't matter if it's directly  
21 contradictory. It's a collateral matter, and it's not  
22 admissible under Rule 609 of the Rules of Evidence, otherwise  
23 we'd basically have a trial that spirals out of control on  
24 everything.

25 THE COURT: I understand what you are saying.

1 MR. FRIEDMAN: Thank you, Your Honor.

2 THE COURT: I am trying to, again, get the exhibit  
3 number.

4 MR. FOX: Your Honor, it hasn't been marked. I would  
5 suggest, to save Your Honor having to watch this over the  
6 weekend, what I would suggest is 8:30 on Tuesday we can deal  
7 with this.

8 MR. BARTLETT: Do we have a copy?

9 MR. FOX: No.

10 MR. BARTLETT: Could you get a copy so we can look at  
11 it over the weekend?

12 THE COURT: I think they should have it, and I should  
13 have a copy. I may find I have nothing to do on the weekend  
14 and I want to look at something.

15 MR. FOX: May I take two minutes before recess and  
16 talk to Mr. Bloom?

17 THE COURT: Let's share this information, then I  
18 think we can get to the bottom of it as to what should or  
19 should not be done. Okay.

20 If you have some copies.

21 MR. FOX: Sure. May I speak to Mr. Bloom?

22 THE COURT: Let's take a recess. Right now I think  
23 we are through with the night. 8:30 Tuesday morning, unless I  
24 talk to you about something else.

25 THE CLERK: All rise, Court is in recess.

1 (Recess taken.)

2 THE CLERK: All rise, Court is again in session after  
3 a recess.

4 THE COURT: All right. It is my understanding, now,  
5 we are talking about the DVD or whatever it is.

6 MR. FOX: What we would like to do is put this issue  
7 off. We can move on, on Tuesday, with other things. If we  
8 decided we want to bring this DVD into evidence or to play it  
9 for Ms. Philabaum and to have her confronted with what we  
10 believe to be prior inconsistent statements, we will give  
11 sufficient notice to the prosecutors that that is what we are  
12 going to do; and we can deal with that piece of it at a later  
13 time. But first thing Tuesday morning I think --

14 THE COURT: I will add one thing to that: Do it in a  
15 timely fashion.

16 MR. FOX: Yes.

17 THE COURT: As to what you are specifically looking  
18 for, identify that and identify question and answer here, so I  
19 can look at it from that standpoint and see just what it is.  
20 Okay.

21 MR. BARTLETT: And the United States would be given  
22 an opportunity to respond?

23 THE COURT: Yes.

24 MR. FOX: Absolutely.

25 MR. BARTLETT: And at some point we will actually be



1 given a copy of the video.

2 THE COURT: All of those should be done before we get  
3 into it. I don't want to delay it with a lot of time where I  
4 have got to take time out to go through all these things and  
5 sift through them. You know how to do that. Let's make sure  
6 it's done and done in a clean fashion.

7 What else?

8 MR. BARTLETT: That is it.

9 MR. FOX: Your Honor, I have asked the clerk once to  
10 relay something to you. There have been times when I have  
11 encountered jurors at the security. I have, of course, looked  
12 down and not even at their eyes.

13 In other cases, I have had sometimes the judge has told  
14 the jurors, that if the attorneys, in particular, if you come  
15 across them and they don't smile at you, it's not because they  
16 are stuck up and not friendly. I don't know that these jurors  
17 have been told that specifically. I don't want the jurors to  
18 think that I'm --

19 THE COURT: I don't know how to be specific. I  
20 thought I mentioned something along that line. I am not  
21 trying to make them antisocial. Didn't I say all that?

22 MR. FOX: Yes, but if you could say in particular the  
23 attorneys cannot really look in their direction.

24 THE CLERK: I have talked to the jurors about it.

25 THE COURT: I think they have been told that. I told

1   them not to take anything out on you because you represent  
2   your client. I thought I said all that.

3               MR. FOX: Thank you very much.

4               THE COURT: We are through, are we? I don't know of  
5   anything else to bring up. I am going to try to get out of  
6   here and have a three-day weekend and take some work home to  
7   read over the weekend and maybe watch a ball game.

8               We will be at recess. See you back here on Tuesday.

9               (The Court recessed to Tuesday, February 19, 2008, at  
10   the hour of 9:00 a.m.)

11                               \*   \*   \*   \*   \*

12                               C E R T I F I C A T E

13  
14               I certify that the foregoing is a correct transcript from  
15   the record of proceedings in the above-entitled matter.

16  
17   /S/ Teri Hendrix

May 2, 2008

18   Teri Hendrix, Court Reporter

Date

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